



#628
December 11, 2018

Report to the Mississippi Legislature

A Statutory Review of Mississippi's Education Scholarship Account Program

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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December 11, 2018

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On December 11, 2018, the PEER Committee authorized release of the report titled *A Statutory Review of Mississippi's Education Scholarship Account Program*.

A handwritten signature in cursive script, reading "Videt Carmichael".

Senator Videt Carmichael, Chair

This report does not recommend increased funding or additional staff.

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A Statutory Review of Mississippi’s Education Scholarship Account (ESA) Program

CONCLUSION: In fiscal years 2017–2018, the Mississippi Department of Education (MDE) disbursed only 70% (\$3.9 million) of education scholarship funds available, while 30% (\$1.7 million) lapsed and was returned to the State Treasury. The ESA program’s net added expense to the state for FY 2018 was \$724,074. The program, as prescribed in state law, lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their special needs goals. Furthermore, the MDE has not administered the program in the most effective manner. However, PEER’s survey indicated high levels of satisfaction with the program by both parents and students.

Background:

In its 2015 Regular Session, the Legislature passed “The Equal Opportunity for Students with Special Needs Act,” which directs the Mississippi Department of Education to implement an Education Scholarship Account program in the state on a phased-in basis. The program’s purpose is to offer parents of special needs children financial assistance to place their children in a nonpublic school setting and receive other educational services that parents believe best meet the needs of their child.

MISS. CODE ANN. Sections 37-181-5 et seq. outline the obligations of parents for participating in the program, the Mississippi Department of Education, and schools that enroll students with an education scholarship account.

For FY 2016 through FY 2018, the budget for the Education Scholarship Account program was \$9 million. Of this amount, the Mississippi Department of Education disbursed \$4.8 million to parents and educational service providers and expended \$309,939 for program administration.

During FY 2018, 367 students participated in the Education Scholarship Account program and attended 96 nonpublic schools in Mississippi, Tennessee, and online. While some of the schools are designed to serve students with special needs, the majority are not aimed toward special needs students.

As of June 29, 2018, 197 students were on the education scholarship account waiting list. Because many of the ESA participants from the previous school year will continue to participate in the program, and the number of available education scholarships is limited, there are few available to new applicants. For the most recent lottery conducted in August 2018, the MDE reported having 47 education scholarships available to award.

Was funding for the ESA program sufficient?

As the result of unused and partially used education scholarship account (ESA) funds in fiscal years 2017 and 2018, the Mississippi Department of Education disbursed only 70% of ESA funds available, while 30% lapsed and was returned to the State Treasury, as were the MDE’s unused administrative funds that lapsed, in the amount of \$230,061. The excess of funds indicates sufficient funding for the ESA program for those years.

Fiscal Year	ESA Disbursements	Percentage Disbursed	Amount Returned	Percentage Returned
2017	\$1,881,656	67%	\$938,344	33%
2018	\$2,057,815	73%	\$762,185	27%
TOTAL	\$3,939,471	70%	\$1,700,529	30%

The Legislature set an education scholarship account amount of \$6,500 in state law for school year 2015–2016, with adjustments based on the Mississippi Adequate Education Program base student cost. For the three other states administering ESA programs in FY 2018—Arizona, Florida, and Tennessee—the amount of the ESA is equal to or 90% of the per-pupil amount the school district or school would have received for the ESA student. In Arizona and Florida, the ESA amount includes additional funds to account for students’ special needs.

Recommendations:

- The Legislature should consider adjusting the ESA formula to align with the Mississippi Adequate Education Program.
- The Legislature should consider removing the lottery requirement and adding further prioritization of those on the ESA waiting list.
- The Legislature should consider allowing unused ESA funds to be reappropriated the following year.
- The Mississippi Department of Education should adopt comprehensive formal policies and procedures for the program to allow for more timely information regarding the status of ESAs.

How did participants utilize ESA funds?

In FY 2017 and FY 2018, participants used 94% of ESA funds on tuition expenses and 6% on nontuition expenses (e.g., tutoring, educational services, or therapies).

What is the fiscal impact on the state and home school districts as a result of the program?

ESA Disbursement	Reduction to MAEP	Net Added Expense to the State
\$2,057,815	\$1,333,741	\$724,074

For FY 2018, the State of Mississippi, through the Mississippi Department of Education, disbursed approximately \$2 million to parents and educational service providers. As a result of ESA participants transferring out of school districts in order to receive ESA funds, the state reduced the amount of MAEP funds distributed to those districts in FY 2018 by \$1.3 million. Therefore, the net added expense to the state for the ESA program for FY 2018 is **\$724,074**.

The fiscal impact on district expenditures resulting from an ESA student leaving the school district is immaterial compared to overall district expenditures. Any fiscal savings would be minimal, if any, because of the small number of students leaving a district.

Has the program been administered as effectively as possible?

The ESA program, as prescribed in the Equal Opportunity for Students with Special Needs Act, lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their special needs goals. The law currently prohibits the state from imposing any regulations on eligible schools.

In November 2017, the U. S. Government Accountability Office released a report on “private school choice.” For the four ESA programs operating in school year 2016–2017, the report showed that Arizona and Mississippi’s ESA programs had fewer accountability mechanisms in place than the ESA programs of Florida and Tennessee.

Also, the MDE has not administered the ESA program as effectively as possible. For example, the MDE has not prioritized students with active individualized education programs (IEPs) on its waiting list for an ESA, as required by state law. In addition, PEER found two instances in which the MDE overpaid parents during a fiscal year and identified missing documents needed to verify allowable expenses for reimbursement.

The state does not know what special needs services ESA students receive and to what extent those are provided by the nonpublic school in which the child is enrolled or by the public school district.

In PEER’s survey to nonpublic schools enrolling ESA students, 33% of respondents reported that they employed no special education staff in FY 2018 and 67% indicated that they received services from the public school district, primarily for speech therapy.

Recommendations:

- The Legislature should consider directing the MDE to implement an accountability structure for the ESA program. By December 1, 2019, the MDE should submit to the Senate and House Education Committees recommendations for an accountability system through which the state can assess various aspects of the program.
- The Legislature should consider establishing an appeals process for parents and educational service providers.
- The Legislature should consider imposing additional requirements for tutoring organizations or private tutoring programs.
- The Legislature should consider providing a means for offering more immediate access to ESA funds.
- The MDE should improve in several areas regarding its administration of the ESA program.

Have parents and students been satisfied with the program?

Measure of Satisfaction	Percentage of Respondents
Overall parent satisfaction	91%
Child satisfaction	80%
Satisfaction with special needs services in nonpublic schools	69%
Child showed progress according to special needs goals	78%
Child showed progress in general academic coursework	66%

Survey respondents indicated that they and their children were satisfied with the program and with the special needs services provided by the nonpublic schools. In addition, the respondents believed that their children had shown progress in achieving their special needs and academic goals through participation in the ESA program.

Almost 50% of parents indicated that their child received more one-on-one attention due to smaller class sizes in nonpublic schools, which they believe better served their students’ special needs.

A Statutory Review of Mississippi's Education Scholarship Account Program

Introduction

Authority, Scope, and Purpose

In 2015 the Mississippi Legislature enacted “The Equal Opportunity for Students with Special Needs Act” (Chapter 441, *Laws of 2015*). MISS. CODE ANN. Sections 37-181-3 et seq. direct the Mississippi Department of Education (MDE) to administer the education scholarship account (ESA) program and outline parents’ and schools’ responsibilities for program eligibility and participation.

As stated in MISS. CODE ANN. Section 37-181-13(1) (1972):

The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a biannual¹ report, beginning in 2018 and every two (2) years thereafter, assessing the sufficiency of funding for education scholarship accounts and recommending any suggested changes in state law or policy necessary to improve the program.

MISS. CODE ANN. Section 37-181-13(2) (1972) further states that the report shall assess the following:

- a. *The level of participating students’ satisfaction with the program;*
- b. *The level of parental satisfaction with the program;*
- c. *Student performance on nationally standardized norm-referenced achievement tests for those participating students whose parents have requested participation in such tests;*
- d. *Student performance on Advanced Placement examinations or similar courses and any examinations related to college or university admission;*
- e. *The high school graduation rates and college acceptance rates of participating students;*

¹As defined in the statute, the review is to take place every two years and thus is “biennial.”

- f. *The percentage of funds used for each qualifying expense identified in Section 37-181-5(2);*
- g. *The fiscal impact to the state and home school districts of the program, which must consider both the impact on revenue and the impact on expenses. Furthermore, the fiscal savings associated with students departing public schools must be explicitly quantified, even if the public school losing the student(s) does not reduce its spending accordingly.*

PEER conducted this review in accordance with MISS. CODE ANN. Sections 5-3-51 et seq.

This biennial report is the first conducted by PEER and includes a review of the program from FY 2016 to FY 2018, the first three years of program operation.

Method

In conducting this review, PEER

- reviewed relevant sections of the state law;
- interviewed managerial, financial, and ESA program staff from the Mississippi Department of Education;
- reviewed federal, state, and local funding information from the MDE;
- reviewed the MDE's ESA program data (e.g., participation data, reimbursement data);
- reviewed the MDE's policies and procedures for administration of the ESA program;
- reviewed the MDE's website and program forms (e.g., applications, reimbursement forms);
- reviewed other states' websites and various requirements (e.g., eligibility) for similar programs;
- administered a survey to 101 schools that enrolled at least one student with an ESA in FY 2016 through FY 2018; and
- administered a survey to 630 parents of children who were awarded an ESA in FY 2016 through FY 2018.

Scope Limitation

“The Equal Opportunity for Students with Special Needs Act” does not require the collection of data by the Mississippi Department of Education regarding ESA student test or exam performance, graduation rates, or college acceptance rates; thus, PEER was unable to assess those areas, as required by law.

While PEER attempted to obtain this information in its survey to parents of ESA recipients, it should be noted that the parent responses PEER collected do not reflect a complete and reliable set of data by which to make a valid assessment for all students in the ESA program (see page 35 for further discussion and Appendix F, page 56, for survey responses to related questions).

Definition of Terms

The following terms are used throughout the report:

- *ESA recipient* — students who were awarded an ESA, regardless of whether they actually participated in the program by receiving ESA funds;
- *ESA participant* — students who were awarded an ESA and received ESA funds;
- *Nonpublic schools* - private, parochial, and independent schools; and
- *Rolled over (ESA)* — ESAs that students kept from one school year to the next.

School Choice Options in Mississippi

According to the National Conference of State Legislatures (NCSL), many state legislatures have enacted various forms of school choice in an effort to improve student achievement throughout the education system, seek innovative methods of instruction and school governance, and provide parents with an alternative to neighborhood schools.

Mississippi offers various forms of public and nonpublic school choice options to parents for their children’s education. Public school options include the following:

- *Charter schools* — five public charter schools are in operation for the 2018-2019 school year.
- *Magnet schools* — at least 17 public magnet schools are in operation for the 2018-2019 school year.
- *Open enrollment policies* — Mississippi allows public school students to transfer to a public school of choice under certain circumstances (e.g., when the school boards of the districts involved mutually agree to allow the student to transfer, upon the written request of the parent or guardian).

Mississippi offers the following nonpublic school choice options:

- *Nate Rogers Scholarship for Students with Disabilities Program* (MISS. CODE ANN. Section 37-175-3 (1972)) — Beginning in 2013, Mississippi began offering scholarships to students with speech-language impairments. The maximum amount of the scholarship is equivalent to the Mississippi Adequate Education Program (MAEP)² base student cost. There is no maximum number of scholarships offered for this program.

²The Mississippi Legislature provides funding to public schools through a formula known as the Mississippi Adequate Education Program (MAEP) that calculates a “base student cost” that is derived from expenditures of school districts in instruction, administration, plant and maintenance, and ancillary (e.g., librarians and counselors). Base student cost does not include other “add-on” funding to districts for such categories as special education.

- *Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program* (MISS. CODE ANN. Section 37-173-3 (1972)) — Beginning in 2012, Mississippi began offering scholarships to students with dyslexia. The maximum amount of the scholarship is equivalent to the MAEP base student cost. This scholarship is available to children without an individualized education program (IEP)³ who have a diagnosis of dyslexia. There is no maximum number of scholarships offered for this program.

In addition, Mississippi allows parents to homeschool and enroll their children in nonpublic schools.

Mississippi's addition of an Education Scholarship Account program expands parents' options for nonpublic school choice by allowing all categories of special needs students to qualify and by providing funds for nontuition educational expenses (e.g., tutoring, textbooks). The Nate Rogers Scholarship and dyslexia scholarship cover tuition only and require students to attend a limited number of state-approved schools, while ESAs allow parents to choose from many schools across the state that meet certain requirements (e.g., accreditation). To qualify for the Nate Rogers Scholarship, a student must have been enrolled in public school the previous year; thus, students already enrolled in a nonpublic school are not eligible.

According to the National Conference of State Legislatures, proponents of ESAs argue that giving parents a variety of options with which to spend the funds will make them more mindful of the quality and cost of services, allowing them to maximize the value of the scholarship. Having multiple options allows parents to customize their child's educational experience to best meet their individual needs. Furthermore, they argue that ESAs increase competition among schools, which forces schools to raise their academic quality and decrease cost to increase enrollment. Opponents of ESAs express concern that the programs lack accountability to ensure that students are receiving a high-quality education and that funds are being used appropriately. Also, some contend that public funds are being shifted away from struggling public schools and instead given to nonpublic schools that are held less accountable.⁴

³An individualized education program (IEP) is a written statement for each child with a disability that is developed, reviewed, and revised in a meeting as described in 34 CFR § 300.320 through § 300.324. An IEP must take into account a child's present levels of academic achievement and functional performance, and the impact of the child's disability on his or her involvement and progress in the general education curriculum. IEP goals must be aligned with grade-level content standards for all children with disabilities.

⁴<http://www.ncsl.org/research/education/the-next-generation-of-school-vouchers-education-savings-accounts.aspx>.

What is Mississippi's Education Scholarship Account program, and how is it administered?

This chapter discusses the following:

- description of Mississippi's ESA program;
- administration of the ESA program;
- ESA program budget, disbursements, and administrative costs;
- number of ESAs awarded and number on waiting list; and
- nonpublic schools serving ESA students in school year 2017-2018.

Description of Mississippi's ESA Program

In its 2015 Regular Session, the Legislature passed "The Equal Opportunity for Students with Special Needs Act," which directs the Mississippi Department of Education to implement an Education Scholarship Account program in the state on a phased-in basis. The program's purpose is to offer parents of special needs children financial assistance to place their children in a nonpublic school setting and receive other educational services that parents believe best meet the needs of their child.

MISS. CODE ANN. Sections 37-181-1 et seq., "The Equal Opportunity for Students with Special Needs Act," passed by the Legislature during the 2015 Regular Session, directs the Department of Education to implement a five-year Education Scholarship Account pilot program. According to MISS. CODE ANN. Section 37-181-7 (1972), the program was limited to 500 students in the first school year (2015-2016) with new enrollment limited to 500 additional students each subsequent year. However, the program has not grown as anticipated in law because the program's budget has not increased through legislative appropriations. If the Mississippi Department of Education had awarded ESAs to up to 500 students per year, the total number of awards would have grown to 1,500 for FY 2018. However, the annual budget for the ESA program remained at \$3 million from FY 2016 through FY 2018; thus, the total number of awards remained under 500 each year. (See page 13 for actual number of participating students.)

The act set an initial amount of \$6,500 for each ESA in school year 2015-2016, with annual adjustments proportionate to the annual adjustments made to the Mississippi Adequate Education Program base student cost. Begun in the 2015-2016 school year, the program has been in operation for three complete school years.

The ESA program offers parents of special needs children financial assistance to place their children in a nonpublic school setting and receive other educational services that parents believe best meet their child's needs.

According to the U.S. Department of Education, each public school student who receives special education and related services must have an individualized education program, which must include specially designed instruction solely for that student. The IEP

creates an opportunity for teachers, parents, school administrators, related services personnel, and students (when appropriate) to work together to improve educational outcomes for students with disabilities.

In the 2016 Regular Session, House Bill 33 amended MISS. CODE ANN. Section 37-181-3 (1972), changing the definition of “eligible student” to include any student who had an active IEP within five years of applying to the ESA program. Prior to the change, only those who had an active IEP within 18 months of applying were eligible. The change increased eligibility for students not enrolled in a public school.

Administration of the ESA Program

MISS. CODE ANN. Sections 37-181-5 et seq. outline the obligations of parents for participating in the program, the Mississippi Department of Education, and schools that enroll students with an education scholarship account.

Parental Obligations

MISS. CODE ANN. Section 37-181-5 (1972) requires that parents sign an agreement promising that they will abide by various ESA program requirements.

MISS. CODE ANN. Section 37-181-5 (1972) states that an eligible student qualifies to participate in the ESA program if the parent signs an agreement promising:

- to provide an organized, appropriate educational program to their participating student;
- to document their student’s disability at intervals required by the program;
- not to enroll their child in a public school;
- to acknowledge that their child has no individual entitlement to a free appropriate public education⁵ from the home school district, including special education and related services;
- not to file a certificate of enrollment with MDE showing participation in a home instruction program; and
- not to participate in the Mississippi Dyslexia Therapy Scholarship Program or the Mississippi Speech-Language Therapy Scholarship Program (i.e., the Nate Rogers Scholarship Program).

⁵34 CFR § 300.17 and 34 CFR § 300.101 require a school district to provide a “free appropriate public education” (FAPE) to each qualified person with a disability in the school district’s jurisdiction, regardless of the nature or severity of the person’s disability. Education programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of nondisabled students are met. An appropriate education may include regular or special education and related aids and services to accommodate the students’ unique needs.

MDE Obligations

Responsibilities of the Mississippi Department of Education include handling the application and award process, adopting rules and policies for the administration of the program, and implementing a system for processing payments and reimbursements.

MISS. CODE ANN. Section 37-181-9 (1972) delineates several responsibilities of the Mississippi Department of Education, including developing a standard application form and providing parents with information regarding the allowable uses of education scholarship accounts. Also, the MDE must annually notify all students with an individualized education program of the existence of the program; MDE complies with this mandate by sending ESA flyers to all superintendents, who are then responsible for distributing the flyers to all students with IEPs and lower-income families. Superintendents must sign an assurance form and return to the MDE to verify that they have disseminated the information.

MISS. CODE ANN. Section 37-181-9(4) states that the MDE “*may deduct an amount up to a limit of six percent (6%) from appropriations used to fund education scholarship accounts to cover the costs of overseeing the funds and administering the program.*”

MISS. CODE ANN. Section 37-181-11 (1972) further instructs the MDE to adopt rules and policies to administer the program, develop a system for payment of benefits, make payments to educational service providers⁶ or reimbursements to parents, and establish methods for reporting fraud (electronically and via phone).

The ESA program has one MDE staff member assigned full-time as the program administrator, while management staff offers support and approvals of ESA functions.

ESA Application and Award Process

As directed by MISS. CODE ANN. Section 37-181-9 (1972), the Mississippi Department of Education created a standard application that parents submit to establish their child’s eligibility for the Education Scholarship Account program. The application is available on the MDE website.

Along with the application form, parents must provide the following documentation:

- copy of parent/legal guardian’s driver’s license or state-issued identification;
- copy of student’s birth certificate;
- legal paperwork to act on behalf of student, if applicable;
- proof of residency (e.g., copy of utility bill);
- copy of student’s most recent IEP that was active within the past five years; and
- copy of student’s most recent eligibility and/or evaluation.

⁶Per MISS. CODE ANN. Section 37-181-3(i) (1972), an educational service provider is “an eligible school, tutor, or other person or organization that provides education-related services and products to participating students.”

Signed applications must be submitted via the United States Postal Service.

Per MISS. CODE ANN. Section 37-181-7(2), the MDE must approve eligible students as follows:

- Until participation in the program reaches 50% of the annual enrollment limit, students must be approved on a first-come, first-served basis, with applications being reviewed on a rolling basis.
- After participation reaches 50%, the MDE must set annual application deadlines for the remaining number of available ESAs and begin to maintain a waiting list of eligible students. If the number of eligible students who apply exceeds the remaining number of ESAs available, the MDE must fill the available spaces using a random selection process (i.e., lottery) that gives preference to students with an active IEP.

Also, participative students who remain eligible for the program are automatically approved for participation in the following school year and are not subject to the lottery. Students remain eligible until the student returns to a public school, completes high school, completes the school year in which he or she reaches the age of 21, or does not have eligibility verified by a parent after three years of initial enrollment in the program.⁷

Eligible Schools' Obligations

MISS. CODE ANN. Section 37-181-15 (1972) requires that eligible schools comply with certain requirements, such as nondiscrimination policies and health and safety laws.

According to MISS. CODE ANN. Section 37-181-3 (1972), an “eligible school” means a nonpublic school that has enrolled a participating student. An eligible school must be accredited by a state or regional accrediting agency or possess a provisional letter of accreditation from a state or regional accrediting agency or be approved/licensed by the Mississippi Department of Education. An eligible school does not include a home instruction program under MISS. CODE ANN. Section 37-13-91 (1972).

MISS. CODE ANN. Section 37-181-15 (1972) states that to ensure that students are treated fairly and kept safe, all eligible schools must

- comply with the nondiscrimination policies set forth in 42 U.S.C. § 1981;
- provide parents with details of the school’s programs, qualifications, experience, and capacities to serve students with special needs prior to a student’s application for enrollment;
- comply with all health and safety laws or codes that apply to nonpublic schools;
- hold a valid occupancy permit if required by their municipality;
- have no public record of fraud or malfeasance;

⁷Per MISS. CODE ANN. Section 37-181-5(8) (1972), every three years after initial enrollment in the program, a parent of a student (except those diagnosed with a permanent disability) must document that the student continues to be identified as a child with a disability.

- offer participating students the option of taking a nationally standardized norm-referenced achievement test; and
- conduct criminal background checks on employees and exclude from employment any person not permitted by state law to work in a nonpublic school and any person who might reasonably pose a threat to the safety of students.

ESA Reimbursement Process

The MDE reimburses quarterly. Each quarter in the fiscal year parents may submit a reimbursement request form and accompanying documentation (e.g., receipts) to the MDE by mail. Parents can also authorize the MDE to make direct payments to educational service providers. During a fiscal year, a parent or educational service provider may only be paid one-fourth of the scholarship total each quarter, or no more than the total amount at the end of four quarters.

Any parent or educational service provider that receives payment must first register as a vendor in MAGIC,⁸ the state's accounting and procurement system of record, and establish an account through which the Mississippi Department of Finance and Administration can make electronic payments.

MISS. CODE ANN. Section 37-181-5(2) (1972) lists the types of expenses eligible for reimbursement (i.e., allowable expenses). See Exhibit 1, page 10.

ESA Program Budget, Disbursements, and Administrative Costs

For FY 2016 through FY 2018, the budget for the Education Scholarship Account program was \$9 million. Of this amount, the Mississippi Department of Education disbursed \$4.8 million to parents and educational service providers and expended \$309,939 for program administration.

As shown in Exhibit 2, page 10, from FY 2016 through FY 2018, the MDE budgeted \$9 million total for the ESA program. From FY 2016 through FY 2018, the department disbursed \$4,823,722 in ESA funds to parents and educational service providers and expended \$309,939 in ESA funds for administration of the program. Administrative costs included primarily salaries and benefits of those involved with the program, but also included printing, office supplies, and IT-related services/equipment. Unused funds lapsed and were returned to the State Treasury.

⁸Mississippi's Accountability System for Government Information and Collaboration.

Exhibit 1: Allowable Expenses in the ESA Program

1. Tuition and/or fees at an eligible school;
2. Textbooks;
3. Payments to a tutor;⁹
4. Payment for purchase of curriculum, including any supplemental materials required by the curriculum;
5. Fees for transportation to and from an educational service provider paid to a fee-for-service transportation provider;
6. Tuition and/or fees for online learning programs or courses;
7. Fees for nationally standardized norm-referenced achievement tests, including alternate assessments, and fees for Advanced Placement examinations or similar courses and examinations related to college or university admission;
8. Educational services or therapies from a licensed or certified practitioner or provider, including licensed or certified paraprofessionals or educational aides;
9. Services provided by a public school, including individual classes and extracurricular programs;
10. Tuition and fees at a postsecondary institution;¹⁰
11. Textbooks related to coursework at a postsecondary institution;
12. Surety bond payments if required by the department;
13. No more than Fifty Dollars (\$50.00) in annual consumable school supplies necessary for educational services and therapies, daily classroom activities, and tutoring;
14. Computer hardware and software and other technological devices if an eligible school, licensed and certified tutor, licensed or certified educational service practitioner or provider, or licensed medical professional verifies in writing that these items are essential for the student to meet annual, measurable goals. Once a student is no longer eligible for the program, computer hardware and software and other technological devices purchased with ESA funds may be donated to a library or a nonprofit organization with expertise and training in working with parents to educate children with disabilities or a nonprofit organization with expertise and training in working with disabled adults.

SOURCE: MISS. CODE ANN. Section 37-181-5(2) (1972).

Exhibit 2: ESA Program Budget, Disbursements, and Administrative Costs, FY 2016 through FY 2018

	FY 2016	FY 2017	FY 2018	TOTAL
ESA Program Budget	\$3,000,000	\$3,000,000	\$3,000,000	\$9,000,000
Disbursements	\$884,251	\$1,881,656	\$2,057,815	\$4,823,722
Administrative Costs	\$102,507	\$126,683	\$80,749	\$309,939

SOURCE: PEER analysis of Mississippi Department of Education data.

⁹Per MISS. CODE ANN. Section 37-181-3(g) (1972), a tutor is “a person who is certified or licensed by a state, regional, or national certification or licensing organization or who has earned a valid teacher’s license or who has experience teaching at an eligible postsecondary institution,” which is defined in Section 37-181-3(h) as “a community college, college, or university accredited by a state, regional or national accrediting organization.”

¹⁰These expenses are allowable for a high school student taking a class or classes at a postsecondary institution, but they are not allowable for a student who has graduated from high school and is enrolled at a postsecondary institution.

Number of ESAs Awarded and Number on Waiting List

From FY 2016 to FY 2018, the Mississippi Department of Education awarded 851 education scholarships. As of June 29, 2018, 197 students were on the education scholarship account waiting list.¹¹ Because many of the ESA participants from the previous school year will continue to participate in the program, and the number of available education scholarships is limited, there are few available to new applicants. For the most recent lottery conducted in August 2018, the MDE reported having 47 education scholarships available to award.

The MDE awarded 394 ESAs in FY 2016. Since FY 2016, the MDE has conducted four lotteries to fill unused ESAs. Given the original number of ESAs awarded in FY 2016, plus the number of students selected in the four lotteries, MDE awarded 851 ESAs from FY 2016 through FY 2018.

The MDE provided PEER with waiting lists maintained from 2016 to 2018. The waiting list maintained during school year 2017–2018 included 367 names, while the most recent waiting list (dated June 29, 2018) included 197 names. Parents must reapply each year to be included on the waiting list for the next lottery.

Because many of the ESA participants from the previous school year will continue to participate in the program, and the number of available ESAs is limited, few are available to applicants on waiting lists. For the most recent lottery conducted in August 2018, the MDE reported that it had 47 ESAs available to award; thus, with 197 students on the waiting list at the end of June, no more than 24% of students on that waiting list could have been drawn in the August lottery.

Snapshot Profile of ESA Recipients

PEER analysis of the 424 students on MDE’s ESA recipient list as of the conclusion of school year 2017–2018 indicated that the most common primary disability types among the ESA recipients—representing more than 60% of students’ primary disability categories—were Language/Speech Impaired, Other Health Impaired (e.g., attention deficit disorder), and Specific Learning Disability (e.g., reading comprehension).¹²

Exhibit 3, page 12, presents the disability types of ESA recipients as of the end of the 2017–2018 school year by number of times reported. A report from the MDE for FY 2018 indicates that these three categories also represented the majority of funds disbursed, at 61%.

¹¹Parents of 197 students applied from January 1, 2018, to June 29, 2018. This number does not include all who have applied since the program’s inception. Parents must reapply each year because the waiting list does not carry over.

¹²Categories of disabilities under the “Individuals with Disabilities Education Act” (IDEA).

Exhibit 3: Disability Types for ESA Recipients as of Conclusion of the 2017-2018 School Year

Primary Disability Type (IDEA Category)	Number of Students	Percentage of total
Language/Speech Impaired	89	21.0%
Other Health Impaired*	87	20.5%
Specific Learning Disability (e.g., reading comprehension)	84	20.0%
Developmentally Delayed	65	15.0%
Autism	48	11.5%
Emotional Disability	16	4.0%
Hearing Impaired	11	2.5%
Intellectual Disability	8	2.0%
Multiple Disabilities	7	1.5%
Visually Impaired	6	1.5%
Traumatic Brain Injury	2	0.5%
Orthopedic Impairment	1	0.0%
Deaf-Blind	0	0.0%
Educable Mentally Retarded	0	0.0%
Severely/Profoundly Mentally Retarded	0	0.0%
Trainable Mentally Retarded	0	0.0%
TOTAL	424	100%

*Includes a range of conditions, such as attention-deficit/hyperactivity disorder (ADHD) and diabetes.

SOURCE: PEER Analysis of Mississippi Department of Education data.

The following list provides characteristics of the group of 424 students on MDE's award list as of the conclusion of school year 2017-2018. For a more complete profile, including a map presenting the locations of ESA recipients across the state, see Appendices A, B and C, pages 50-53.

- ESA recipients were between 4 and 21 years old. Ninety-two percent of the students were between 6 and 18 years old.
- Seventy-eight percent of ESA recipients had IEPs that were three years old or less (i.e., they were enrolled in public school within the past three years).
- The number of ESA recipients represented 0.6% of the total population of students with disabilities statewide.
- Ninety-nine (23.5%) parents reported that their student (i.e., ESA recipient) was black or African-American, and 250 parents (59.5%) reported their child was white. While 76% of black or African-American students' parents submitted requests for reimbursement, 91% of white students' parents submitted requests for reimbursement.
- Seventy-five (18%) parents reported that their student (i.e., ESA recipient) was eligible for free or reduced-price lunch in public

school. While 242 (57%) parents reported their ESA student was not eligible for free or reduced-price lunch. One hundred four (25%) did not respond.

- Considering the number of students statewide in each of the disability categories for FY 2018, ESA program recipients represented a proportionately higher percentage of students with disabilities in the categories of Other Health Impaired, Developmentally Delayed, and Autism. ESA program recipients represented a proportionately lower population in the categories of Language/Speech Impaired, Specific Learning Disability, and Intellectual Disability.
- At the time of application to receive an ESA, 82% of ESA participants in FY 2018 were enrolled in public school, while 18% were enrolled in various nonpublic educational settings, including preschool, nonpublic school, School 500,¹³ and university-based programs. For a breakdown of enrollment categories for both FY 2017 and FY 2018, see Appendix D, page 54.

Nonpublic Schools Serving ESA Participants in FY 2018

During FY 2018, 367 students participated in the Education Scholarship Account program and attended 96 nonpublic schools in Mississippi, Tennessee, and online. While some of the schools are designed to serve students with special needs, the majority are not.

PEER reviewed reimbursement information to determine that 367 students participated in (i.e., received funds through) the ESA program during FY 2018. These students attended 96 nonpublic schools in Mississippi, Tennessee,¹⁴ and online.

Several schools serving students in school year 2017-2018 were designed for a special needs population, such as the Dynamic Dyslexia Design: 3-D School, Magnolia Speech School, New Summit in Greenwood and Jackson, and The Institute for Diverse Education (TIDE). The majority of schools, however, are not specifically designed for students with special needs. See Appendix E, page 55, for a complete list of schools that served students in school year 2017-2018.

While many students attended a school not aimed toward special needs students, 77% of parents indicated in responses to the satisfaction survey that they were seeking more individual attention for their children, which they believed would be provided in a nonpublic school.

To create a profile of schools that served ESA participants, PEER surveyed 101 schools that had enrolled an ESA student from 2015

¹³School 500 students are students for whom the district is providing special education services but who are not enrolled in a regular public school.

¹⁴According to MISS. CODE ANN. Section 37-181-5(5) (1972), ESA funds may be used to attend a school out of state if the school is approved for the Educable Child Program or if the parent verifies in writing that the child cannot reasonably obtain appropriate services in Mississippi at a location within 30 miles of the place of residence.

to January 2018 (list provided by the MDE). PEER received responses from 33 schools. Responses indicated the following:

- Average annual cost of tuition for school year 2017–2018 was \$8,000 (excluding fees for supplies, activities, etc.).
- Seven schools (21%) provided transportation for students (two schools charged an additional fee).
- All schools had a nondiscrimination policy.
- For the 25 school responses with enrollment numbers, 85% of students enrolled were white, 11% were black or African-American, and 4% were other races/ethnicities.
- The average ACT score was 21.
- The schools were accredited by nine different entities, including AdvancED, the Mississippi Department of Education, the Southern Association of Colleges and Schools, the Southern Association of Independent Schools, and the Southern Plains Association of Christian Schools. Twenty schools (61%) were accredited by multiple entities.

Was funding for the ESA program sufficient?

As the result of unused and partially used education scholarship account funds in fiscal years 2017 and 2018, the Mississippi Department of Education disbursed only 70% of ESA funds available, while 30% lapsed and was returned to the State Treasury, as were the MDE's unused administrative funds that lapsed, in the amount of \$230,061. The excess of funds indicates sufficient funding for the ESA program for those years.

MISS. CODE ANN. Section 37-181-13(1) (1972) requires in part that the PEER Committee prepare a biennial report assessing the "sufficiency of funding for education scholarship accounts." To accomplish this task, PEER

- compared Mississippi's ESA formula to other states;
- compared Mississippi's ESA formula and per-pupil amounts to other nonpublic school choice programs in Mississippi; and
- determined to what extent ESA funds were spent.

ESA Formula Compared to Other States

The Legislature set an education scholarship account amount of \$6,500 in state law for school year 2015–2016, with adjustments based on the Mississippi Adequate Education Program base student cost. For three other states administering ESA programs in FY 2018, the amount of the ESA is equal to or 90% of the per-pupil amount the school district or school would have received for the ESA student. In two states, the ESA amount includes additional funds to account for students' special needs.

PEER reviewed the funding formulas for Mississippi, Arizona, Florida, and Tennessee, the four states with ESA programs operating in FY 2018 (see Exhibit 4, page 16). Mississippi's formula is distinctly different from those of the other three states in that the Legislature set a dollar amount (\$6,500) in state law, with yearly adjustments (see footnote 2, page 3, regarding the funding formula). The three other states base their ESA amounts on what the student's school or district would have received for that student. While Arizona's formula only includes state funding, Tennessee's formula includes state and local funding. The other states' formulas generate a range of ESA amounts depending on such factors as the student's grade and county of residence. Arizona and Florida's formulas take into account students' disabilities.

For example, Tennessee divides the total amount of the basic education program funding for the school district (including the state portion and the amount the local government must match) by the total number of students enrolled in each school district. This calculation results in a different award amount for each school district, which ranged from \$6,257–\$7,596 for FY 2018. The funding amount is the same for all students in each district, regardless of disability. In contrast, Arizona's ESA amount depends on characteristics of the school (e.g., elementary versus high school) and characteristics of the student (e.g., grade level, category of eligibility (e.g., child with a disability, a child attending a D- or F-rated school or

district)). Higher program amounts are provided to students with disabilities.¹⁵

Exhibit 4: State Comparison of Formulas To Determine ESA Amounts and FY 2018 ESA Amounts

State (Program Name)	Formula To Determine ESA Amount	Estimated Annual ESA Amounts
Mississippi (Education Scholarship Account Program)	Per-pupil ESA amount of \$6,500, set in law in FY 2016, with yearly adjustments based on the MAEP base student cost.	\$6,494 (FY 2018 amount)
Arizona (Empowerment Scholarship Account Program)	Per-pupil ESA amount is equal to 90% of the amount the student’s prior district or charter school would have received in state funding, according to the state’s education funding formula. Amounts vary depending on several factors, such as grade level and district of residence. Students with special needs receive additional funding, and those amounts vary depending on the category of disability.	\$3,000–\$30,000 The average award for special needs students as of February 2017 was \$18,971.96.
Florida ¹⁶ (Gardiner Scholarship Program)	ESA amount is equal to 90% of the per-pupil funds the student’s public school would have received for the student. Amounts vary based on grade, county of residence, and public school spending for students with disabilities.	\$9,235–\$11,151 (FY 2019 amount)
Tennessee (Individualized Education Account Program)	ESA amount is equal to the per-pupil amount representing the per-pupil state and local funds generated and required through the basic education program (BEP) [Tennessee’s education funding formula] for the school district in which the student resides and is zoned to attend.	\$6,257–\$7,596 (FY 2018 amount)

SOURCE: PEER analysis of program websites and communications with staff.

Mississippi’s funding to districts for special needs students is not based on actual cost to educate students with special needs; rather it is based on the estimated teacher units needed to serve these students. Because of this funding model, the state does not calculate actual costs of educating special needs students. Without this information, PEER cannot ascertain what information led to the \$6,500 ESA amount set in statute.

¹⁵While Mississippi, Florida, and Tennessee’s programs are limited to students with disabilities, Arizona’s program includes several other populations of students: children of military members who are active duty, children living on a Native American reservation, children who were adopted, siblings of ESA recipients, children attending or residing in D-rated or F-rated schools or school districts.

¹⁶While the state departments of education administer the ESA programs in Mississippi, Arizona, and Tennessee, two nonprofit organizations administer the ESA program in Florida.

ESA Formula and Amounts Compared to Other Nonpublic School Choice Programs

For the Nate Rogers Scholarship and dyslexia scholarship programs, scholarship amounts are equal to the MAEP base student cost. For FY 2018, these scholarship amounts were \$4,909.02, while ESA amounts were \$6,494, a difference of \$1,584.98 (24%).

PEER compared the ESA amounts for FY 2017 and FY 2018 to the amounts for the other two nonpublic school choice programs for students with disabilities in the state—the Nate Rogers Scholarship for Students with Disabilities and the Mississippi Dyslexia Therapy Scholarship for students with dyslexia, both described in more detail on page 3.

For both the Nate Rogers Scholarship and Dyslexia Scholarship, the maximum yearly amounts of the scholarships are equivalent to the adjusted MAEP base student cost. In contrast, the ESA program began with a set amount of \$6,500 and increases or decreases by the same proportion as the MAEP base student cost each year.

Exhibit 5 presents the amounts of the ESAs, Nate Rogers, and dyslexia scholarships for FY 2017 and 2018. For fiscal years 2017–2018, the ESA amount exceeded the Nate Rogers and dyslexia scholarship amounts by 24%.

Exhibit 5: ESA, Nate Rogers, and Dyslexia Scholarship Amounts, FY 2017–FY 2018

Fiscal Year	ESA Amount	Nate Rogers Scholarship and Dyslexia Scholarship	Difference	Percentage Difference
FY 2017	\$6,637.00	\$5,017.28	\$1,619.72	24%
FY 2018	\$6,494.00	\$4,909.02	\$1,584.98	24%

SOURCE: PEER analysis of Mississippi Department of Education data.

In FY 2018, the MDE awarded two Nate Rogers Scholarships, 210 dyslexia scholarships, and 493 ESAs.

Extent of Use of ESA Funds

The Mississippi Department of Education disbursed only 70% (\$3.9 million) of education scholarship account funds available in the form of reimbursements to parents and educational service providers, while 30% (\$1.7 million) lapsed and was returned to the State Treasury. MDE’s unused administrative funds in the amount of \$230,061 lapsed and were returned to the State Treasury rather than used to fund additional ESAs. The excess indicates sufficient funding for those fiscal years.

As shown in Exhibit 6, page 18, \$2.82 million was available each year for both FY 2017 and FY 2018, which does not include the 6% (\$180,000) administrative expense for the MDE. In FY 2017 the MDE disbursed an amount of approximately \$1.9 million (67%) and returned \$938,344 to the State Treasury. In FY 2018 the MDE disbursed an amount of \$2 million and returned \$762,185 to the

State Treasury. Unused or partially used ESAs for FY 2017–FY 2018 resulted in a total lapsed amount of \$1.7 million (30%), which was returned to the State Treasury.

Exhibit 6: ESA Funds Available, Disbursements, and Amounts Returned to State Treasury, FY 2017–FY 2018

Fiscal Year	ESA Funds Available*	ESA Disbursements	Percentage Disbursed	Amount Returned to State Treasury	Percentage Returned
2017	\$2,820,000	\$1,881,656	67%	\$938,344	33%
2018	\$2,820,000	\$2,057,815	73%	\$762,185	27%
TOTAL	\$5,640,000	\$3,939,471	70%	\$1,700,529	30%

*Of its \$3,000,000 annual ESA budget, the MDE allocated \$180,000 per year to administration, with \$2,820,000 available for disbursement.

SOURCE: PEER analysis of Mississippi Department of Education data.

Unused ESAs

For fiscal years 2017 and 2018, an average of 69% of ESAs were used (i.e., parents requested reimbursement or direct payment to educational service providers), while an average of 31% were not used. Reasons for not using ESAs included inability to locate a nonpublic school in which to enroll their children, lack of affordability, and receiving their ESA too late in the school year to use it.

As illustrated in Exhibit 7, although the MDE awarded 525 ESAs for the FY 2017 school year, including 250 scholarships that had rolled over from the FY 2016 school year, parents received reimbursements or authorized direct pay to educational service providers for only 340 ESAs—just 65% of those who were awarded an ESA. The total unused ESAs for FY 2017 was 185 (35%).

Similarly, although the MDE awarded 493 education scholarships for the FY 2018 school year, including scholarships that had rolled over from the FY 2017 school year, parents received reimbursements or authorized direct pay to educational service providers for only 367 of those ESAs, or 74% of those who were awarded an ESA. The total of unused ESAs for FY 2018 was 126 (26%).

Exhibit 7: Unused and Used ESAs, FY 2017–FY 2018

Fiscal Year	Number of ESAs	ESAs Used	Percentage Used	ESAs Unused	Percentage Unused
2017	525	340	65%	185	35%
2018	493	367	74%	126	26%
AVERAGE	509	353.5	69%	155.5	31%

SOURCE: PEER analysis of Mississippi Department of Education data.

Parents' Reasons for Not Using ESAs

Parents' reasons for nonuse of ESA funds included limited access and lack of affordability.

In PEER's satisfaction survey to parents and a review of "recertification forms" filled out by parents regarding their use of ESAs each year, the most common reasons for not using ESA awards included the following:

- Parents stated that they were not able to locate a nonpublic school that met their child's needs.
- Parents stated that their children were placed on a waiting list or denied admission to a nonpublic school. One parent indicated that because there were only a limited number of accredited special needs schools in the area, there were no vacancies and long waiting lists.
- Parents stated that they were not able to afford the initial costs of enrolling their children and waiting for reimbursement. One parent indicated that nonpublic schools in the area required payment in advance, and as a single parent, she could not afford the tuition.

According to the "recertification forms" submitted by parents to the MDE, most parents who did not use the ESAs indicated that they reenrolled their children in public school.

Held ESAs Contribute to Unused Funds

The MDE has not set any deadlines in writing for a parent to submit necessary documentation to show when the student has enrolled in an eligible nonpublic school and intends to use the ESA or to report when declining an ESA. This inefficiency contributes to unused ESA funds.

When the MDE awards an ESA, it does not know whether or not the parent will be able to use it. If the student is in public school, the use of the ESA would be dependent upon several factors, including whether the parent could find a nonpublic school in which to enroll the child. Although parents need time to transition children out of public school and into a nonpublic school, the MDE has not set any deadlines in writing for a parent to submit necessary documentation to show when the student has enrolled in an eligible nonpublic school and intends to use an ESA or to report when declining the ESA. Such documentation deadlines would enable the MDE to know by a certain date whether the recipient intends to use ESA funds or if the ESA should be reawarded.

Instead, the only way the MDE has assurance that an ESA recipient has used the funds is when the parent submits a reimbursement request. For parents who have not submitted reimbursement requests in two consecutive quarters, the MDE's ESA staff develops a list and determines how many of the students are enrolled in public school, how many graduated, and how many are not enrolled in public school but whose parents have not submitted reimbursement requests through the program. The MDE removes those enrolled in public school and who have graduated from the ESA program. Staff attempt to contact those

on the list who are not enrolled in public school to determine whether they plan to use the ESA. One such list, prepared by MDE in December 2016, included 154 ESAs for which MDE staff had to determine the students' status. This inefficient system contributes to unused ESA funds.

Also, according to ESA staff, although not a formal, written policy, if recipients are awarded an ESA in the winter lottery (February), recipients can hold their ESAs from February to August. If recipients are awarded an ESA in the summer lottery (July), they can hold their ESA from July to December. If the recipient can provide proof of enrollment for the next school year or proof that the child is on a waiting list, the recipient can hold the ESA until that school year. In this environment, there can be extended periods of time in which an ESA is not being used.

Lottery Requirement and Timeline Contribute to Unused Funds

State law requires that the MDE conduct a lottery to award ESAs when the number of eligible students who apply for the program exceeds the number of ESAs available. Some survey respondents indicated they were unable to use their ESAs because of the lottery timeline.

Until program participation reaches 50% of annual enrollment, students are approved on a first-come, first-served basis, with applications being reviewed throughout the year. After program participation reaches 50% of the annual enrollment, MISS. CODE ANN. Section 37-181-7(2)(b) (1972) requires the MDE to set application deadlines for the remaining number of available ESAs and begin to maintain a waiting list of eligible students. If the number of eligible students who apply for the program exceeds the remaining number of ESAs available, the MDE must randomly select students from its waiting list (i.e., conduct a lottery). The number of eligible students has exceeded the number of ESAs available since 2016 as interest in the program grew but the program's budget did not increase. Therefore, the MDE has conducted lotteries twice per year since 2016, one in winter and one in summer. Mississippi is the only state administering an ESA program that requires a lottery to be conducted.

When parents indicate to the MDE that they will not be using their ESAs, the MDE does not have authority to reaward that ESA to a person on the waiting list. Instead, the department must maintain a waiting list until the next lottery date (held twice per year on dates decided by the MDE) and then randomly select from that list. Therefore, the MDE does not award ESAs as soon as possible.

In addition, a lottery system allows for instances in which a parent could apply multiple years for an ESA yet never receive an ESA through the lottery system. Conversely, a new applicant may potentially be selected in the lottery. This situation could be discouraging to parents and children and could be further delaying a child from receiving needed services.

From FY 2016 through FY 2018, the MDE held four lotteries (no lottery was held in FY 2016) to award a total of 416 unused ESAs. Because two of those lotteries were held in the month of July, parents were generally not given a reasonable amount of time to

apply and enroll their children in a nonpublic school before the school year started in August. The other two lotteries were held in January and February, which allowed for a more reasonable timeline for parents to apply prior to the following school year. Also, although parents potentially had access to funds in January, most parents would not be able to transition their child to a nonpublic school in the current year.

In PEER’s satisfaction survey to parents and review of forms completed by parents regarding the use of ESAs, five of them indicated that they were not given enough time to apply and enroll in a nonpublic school or arrange for new services prior to the upcoming school year.

Partially Used ESAs

Of the ESAs that were used in FY 2017 and FY 2018, an average of 55% were used for the full amount of the ESA, while an average of 45% were used for less than the full amount. If participants do not use the full amount of the ESA, those funds are returned to the State Treasury and are not reappropriated in the following year.

When the MDE awards an ESA, the value of the ESA is set at a specific amount, which is the same for every recipient. The amounts of the ESAs were \$6,500, \$6,637, and \$6,494 for FY 2016, 2017, and 2018, respectively. If a participant does not use the full amount of the ESA, those funds are returned to the State Treasury and are not reappropriated in the following year.

As presented in Exhibit 8, for FY 2017–FY 2018, an average of only 55% of the ESAs were exhausted; 45% were used for less than the full amount. In FY 2018, 23 ESA participants were reimbursed less than \$2,000, 90% of which were funds for tuition. Of those who used less than the full amount of the ESA in FY 2018, the average amount of unused funds was \$2,184.

Exhibit 8: Number of Full and Partially Used ESAs, FY 2017–FY 2018

Fiscal Year	Total Number of Used ESAs	Number Used for Full ESA Amount	Percentage of Total	Number Used for Less Than Full ESA Amount	Percentage of Total
2017	340	171*	50%	169	50%
2018	367	217	59%	150	41%
AVERAGE	354	194	55%	160	45%

*The MDE erroneously reimbursed two of these participants more than the full ESA amount for FY 2017. See pages 41–42 for discussion.

SOURCE: PEER analysis of Mississippi Department of Education data.

Arizona, Florida, and Tennessee have provisions that allow parents to convert unused funds from ESAs to another type of tax-advantaged education savings account or a qualified tuition plan for their child’s college education. Florida also allows parents to transfer ESA funds into the state’s prepaid college program.

In response to the PEER satisfaction survey, 60% of parents indicated that they would like for ESA funds to roll over from year to year, and 38% indicated that they would like an option to contribute additional pretax funds to their ESA account for additional education and special needs services.

Administrative Funds Returned to State Treasury

For FY 2016 through FY 2018, the Mississippi Department of Education did not spend 43% of the funds it set aside for program administration. The \$230,061 in unused funds lapsed and was returned to the State Treasury rather than used to fund additional education scholarship accounts. If the MDE had set aside 4% for administration in FY 2018 (based on FY 2016 and 2017 data) instead of 6%, the department could have funded an additional nine ESAs totaling \$58,446.

According to MISS. CODE ANN. Section 37-181-9(4) (1972), the MDE may deduct an amount up to 6% from appropriations used to fund ESAs. The MDE chose to set aside the maximum amount of 6% (\$180,000) of ESA appropriations (\$3 million) annually to administer the program from FY 2016 through FY 2018.; however, it spent only approximately 2.7% to 4.2% of appropriations for administration of the program for those three fiscal years. As shown in Exhibit 9, 43% of the funds the MDE set aside for administration each year were unspent and returned to the State Treasury.

Exhibit 9: Unused Administrative Funds, FY 2016–FY 2018

Fiscal Year	6% Administrative Set-Aside Funds	Unused Administrative Funds	Percentage of Administrative Funds Unused
2016	\$180,000	\$77,493	43%
2017	\$180,000	\$53,317	30%
2018	\$180,000	\$99,251	55%
TOTAL	\$540,000	\$230,061	43%

SOURCE: PEER analysis of Mississippi Department of Education data.

The MDE’s administrative costs were 3.4% and 4.2% for FY 2016 and FY 2017, respectively. If the MDE had set aside 4% for administration in FY 2018 (\$120,000), a reasonable estimate, an additional \$60,000 would have been available to fund ESAs. With ESAs valued at \$6,494 in FY 2018, the MDE could have funded an additional nine ESAs totaling \$58,446. By setting aside the maximum allowed by law and not using the funds, the MDE essentially reduced the number of ESAs available and therefore did not award the maximum number possible. This is particularly significant considering 197 students were on the ESA waiting list in June 2018.

The MDE indicated that it intends to use some of its administrative funds in the future to implement an online portal for its application and reimbursement processes.

How did participants utilize ESA funds for allowable expenses?

In FY 2017 and FY 2018, participants used 94% of ESA funds on tuition expenses and 6% on nontuition expenses (e.g., tutoring, educational services, or therapy).

Use of ESA Funds

In FY 2017 and FY 2018, participants used 94% of their education scholarship account funds on tuition expenses. In FY 2018, tutoring accounted for another 3% of funds, while various expense categories (e.g., educational services or therapy) accounted for the remaining 3%.

Although the Mississippi Department of Education provided PEER the total amount of ESA funds disbursed for scholarships in FY 2016, it did not categorize those disbursements by expense type, as it did for the following two years. Thus, the following information is for FY 2017 and FY 2018 only.

In FY 2017 the MDE distributed \$1,761,586 to parents and educational service providers for tuition reimbursement. This accounted for 94% of the \$1,881,656 it distributed in ESA reimbursements. In FY 2018 the MDE distributed \$1,923,623 to parents and educational service providers for tuition reimbursement, which was likewise 94% of that year's \$2,057,815 scholarship reimbursement, as shown in Exhibit 10, page 24. Tutoring accounted for another 3% of funds, while various other expense categories (e.g., educational services, therapy) accounted for the remaining 3%.

PEER identified two instances in which MDE overpaid parents during a fiscal year and multiple instances in which it was unable to provide documentation to verify allowable expenses for reimbursement. See pages 41-42 for discussion.

Exhibit 10: Percentage of ESA Expenses by Expense Type, FY 2017 and FY 2018

Expense Type	FY 2017		FY 2018	
Tuition	\$1,761,586	94%	\$1,923,623	94%
Textbooks	\$8,614	0%	\$11,044	1%
Tutor	\$45,082	2%	\$53,126	3%
Curriculum	\$9,647	1%	\$9,810	0%
Transportation	\$3,412	0%	\$3,642	0%
Tuition for online courses	\$13,573	1%	\$18,115	1%
Achievement tests	\$160	0%	\$613	0%
Therapy	\$30,917	2%	\$29,030	1%
Services provided by a public school	\$75	0%	\$0	0%
Tuition at postsecondary institution	\$0	0%	\$0	0%
Textbooks related to coursework at postsecondary institution	\$15	0%	\$0	0%
Surety bond payments	\$0	0%	\$0	0%
School supplies (no more than \$50 per child)	\$1,470	0%	\$1,594	0%
Computer hardware, software, and devices	\$7,105	0%	\$7,218	0%
TOTAL	\$1,881,656		\$2,057,815	

SOURCE: PEER analysis of Mississippi Department of Education data.

What is the fiscal impact on the state and on home school districts as a result of the ESA program?

For fiscal years 2016, 2017, and 2018, the State of Mississippi, through the Mississippi Department of Education, disbursed approximately \$884,000, \$1.9 million, and \$2 million, respectively. As a result of ESA participants transferring out of school districts in order to receive ESA funds, the state reduced the amount of MAEP funds distributed to those districts in FY 2018 by \$1.3 million. Therefore, the net added expense to the state for the ESA program for FY 2018 was \$724,074.

The ESA program began during FY 2016, and the MDE disbursed approximately \$884,000 for ESA participants for that fiscal year. However, the MDE was not able to provide PEER documentation of which schools those participants attended at the time of application. During FY 2017 the state disbursed approximately \$1.9 million to 340 ESA participants and in FY 2018 disbursed approximately \$2 million to 367 ESA participants for a total of approximately \$3.9 million disbursed during those two fiscal years. The figures represent the total number of ESA participants and not just the number of ESA students originally enrolled in a public school district.

Fiscal Impact to State Expenditures and Revenues

MISS. CODE ANN. Section 37-181-13 (1972) requires in part that the PEER Committee assess the fiscal impact of the ESA program to the state. When an ESA participant leaves a public school, the school district will receive fewer funds in the future from the Mississippi Adequate Education Program, which represents a reduction in expenses to the state, because MAEP disburses funds to school districts based in part on the average daily attendance (ADA) of pupils at each district.

However, because of timing differences, MAEP disbursements are based on districts' ADA of the prior year. For example, the FY 2018 MAEP disbursements were based on FY 2017 ADA figures, as shown in Exhibit 11. For FY 2018, PEER determined the ESA program's impact to the state (i.e., the difference between the amount disbursed through the program and the reduction in MAEP funds to the districts) was \$724,074.

Exhibit 11: ESA Disbursements and MAEP Reductions, FY 2018

ESA Disbursements	Reduction to MAEP (based on ADA from the prior year)	Net Effect
\$2,057,815 (to 367 participants)	\$1,333,741 (for 280 FY 2017 participants who were enrolled in a public school at the time of application)	\$724,074

SOURCE: PEER analysis.

Although ESA students originally from public school districts in FY 2016 did result in reduced MAEP disbursements for FY 2017, PEER could not calculate the ESA program's impact to FY 2017 MAEP public school funding because the MDE could not provide PEER with necessary information on which FY 2016 participants were enrolled in public school at the time of application. Therefore, this report does not include any FY 2017 MAEP disbursement reductions due to FY 2016 ESA participants.

The impact of FY 2018 ESA participants who were enrolled in a public school district at the time of application will result in a reduction of MAEP disbursements in FY 2019. PEER will calculate and report any MAEP disbursement reductions for FY 2019 for the next ESA report due in 2020.

Regarding the impact of the ESA program on state revenues, federal distribution of IDEA funds to states is not affected by the number of children with disabilities but rather by the population of children and the population of children living in poverty in both public and private schools. Therefore, the ESA program did not negatively affect the amount of federal IDEA revenue coming to the state of Mississippi; thus, the ESA program's effect on state revenues is neutral.

Fiscal Impact to School District Expenditures and Revenues

MISS. CODE ANN. Section 37-181-13 (1972) requires in part that the PEER Committee assess the fiscal impact of the ESA program to the school districts and the savings associated with students departing public schools. Based on a review of the factors noted below that are associated with ESA students, PEER determined the fiscal impact on district expenditures resulting from an ESA student leaving the school district is immaterial compared to overall district expenditures. However, fiscal savings would be minimal, if any, due to the small number of ESA students leaving a district.

Regarding the fiscal impact on staffing, the number of ESA students leaving a district relative to a district's total student enrollment has a direct impact on a district's ability to implement staff reductions because of those departing students. For example, even though a district may have dozens of ESA students departing, if the district has a student enrollment of thousands or tens of thousands, the district's ability to reduce staff will be affected. Such factors as the dispersion of the departing students among grades, schools, whether a district has sufficient staff to address ESA and other special needs students' needs prior to the departures play a direct role in a district's decision making regarding a reduction of staff.

For example, for FY 2017 and FY 2018,

- Rankin County School District had the most ESA students departing with 37 students and 41 students, respectively. However, these students represent 0.2% of the district's total enrollment;
- no individual school lost more than 1% of its student population; and

- no school lost more than six students and only two of these students had the same type of special needs.

Staff reductions are more likely if student departures are concentrated at one school, the departing students' disabilities are similar, and the number of departing students is large enough to consolidate a special needs class, eliminate a special needs class, or eliminate a teacher or assistant position. Even if these factors are in place, a district may choose to use a higher staff-to-student ratio to offer increased support to remaining students; staff could be reassigned to other special needs areas that lack sufficient staff support; staff could be transferred to other schools in the district; or staff could be reassigned to other areas of need in the school.

Regarding the fiscal impact on items other than staffing, the cost of an ESA student leaving a district is comparable to another student leaving a district such that the school does not realize any savings from a single student's departure beyond what classroom supplies and material, if any, are necessary for the student.

School district revenues from the state mirror the state's expenditures through the MAEP program. School districts will experience a reduction in MAEP revenues resulting from ESA participants leaving a district due to a reduced ADA, which determines district MAEP funding. However, as noted on page 25, the impact of FY 2016 ESA participants on MAEP disbursements and therefore school district revenues cannot be determined because of a lack of information from the MDE. The impact of FY 2018 ESA participants on MAEP disbursements will begin in FY 2019, and will be reported in the next education scholarship account PEER report scheduled for 2020.

How many ESA participants came from public school districts?

In FY 2017 and FY 2018, 82% of ESA participants were from public school districts.

Students from public school districts and private schools are eligible to participate in the ESA program provided the school has prepared an individualized education program for the student within five years prior to application to the ESA program. In FY 2017 a total of 340 students participated in the ESA program resulting in MDE disbursements of approximately \$1.9 million. Of these totals, 280 students had been enrolled in a public school at the time of application and the MDE disbursed approximately \$1.6 million in payments to parents or education providers of these ESA students. The remaining 60 students were not enrolled in a Mississippi public school at the time of application. Appendix D, page 54, illustrates this categorization as well as from what education settings those who had not been enrolled in public school came, including homeschool, nonpublic school, out of state school, preschool or preschool age, School 500,¹⁷ and university-based program. The MDE disbursed approximately \$308,000 in ESA payments to parents or education providers of ESA students not enrolled in a Mississippi public school at the time of application.

¹⁷Because School 500 students are not enrolled in a regular public school, they are not included in average daily attendance and therefore not included as part of the district's MAEP calculation.

In FY 2018 a total of 367 students participated in the ESA program resulting in MDE disbursements of approximately \$2 million. Of these totals, 300 students had been enrolled in a public school at the time of application and the MDE disbursed approximately \$1.7 million in payments to parents or education providers of these students. The MDE disbursed approximately \$352,000 to the remaining 67 participants who had not been enrolled in a Mississippi public school at the time of their application to the ESA program.

From which public school districts did the most ESA participants come?

In FY 2017 and FY 2018, five public school districts accounted for 48% of ESA participants who had been enrolled in a public school district at the time of application, with the highest number of ESA participants coming from the Rankin County School District, which accounted for 37 participants in FY 2017 and 41 participants in FY 2018.

In FY 2017, of a total of 172 school districts in the state, 64 districts had lost students to the ESA program, with Rankin County School District experiencing the greatest loss of 37 students. Overall, five districts accounted for 135 out of a total of 280 students, or 48%, of all ESA participants who had been enrolled in a public school district:

- Rankin County - 37 students;
- Madison County - 34 students;
- DeSoto County - 32 students;
- Jackson Public - 19 students; and
- Hinds County - 13 students.

The remaining 145 ESA participants left 59 other public school districts.

In FY 2018, 64 districts lost students to the ESA program, with Rankin County School District experiencing the greatest loss of 41 students. Overall, five districts accounted for 145 of a total of 300, or 48%, of all ESA participants who had been enrolled in a public school district:

- Rankin County - 41 students;
- Madison County - 39 students;
- DeSoto County - 30 students;
- Jackson Public - 22 students; and
- Hinds County - 13 students.

The remaining 155 ESA student participants left 59 other public school districts.

Has the ESA program been administered as effectively as possible?

The ESA program, as prescribed in “The Equal Opportunity for Students with Special Needs Act,” lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements, and that students with disabilities are receiving the services they need and progressing toward their special needs goals. Further, the Mississippi Department of Education (MDE) has not administered the ESA program as effectively as possible. However, the PEER survey indicated high levels of satisfaction by both parents and students.

Lack of Accountability

The ESA program lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their special needs goals.

Some individuals may contend that “The Equal Opportunity for Students with Special Needs Act” is strictly a school choice program and that a formal accountability program is unnecessary because parents’ ability to research and choose a school is sufficient to ensure school quality. However, legislators and those they represent tend to expect that programs funded by the taxpayers have a system in place to ensure that funds are spent efficiently and with positive outcomes. For the ESA program, an accountability structure would help to ensure that, with taxpayer funds, parents choose quality schools and programs that provide the educational services that children with disabilities need.

No Requirement for Nonpublic Schools To Apply for Participation

The act does not require that nonpublic schools apply for participation in the ESA program. Without this application process, the state has no assurance that schools enrolling ESA students meet all requirements in law. Also, six nonpublic schools reported to PEER that they were unaware they had enrolled a student with an ESA and thus were unaware of their statutory obligations.

Statutory Obligations of Eligible Nonpublic Schools

“The Equal Opportunity for Students with Special Needs Act” defines an “eligible school” as a nonpublic school that has enrolled a participating student. An eligible school must be accredited by a state or regional accrediting agency or possess a provisional letter of accreditation from a state or regional accrediting agency or be approved/licensed by the Mississippi Department of Education.

In addition, according to MISS. CODE ANN. Section 37-181-15 (1972), to ensure that students are treated fairly and kept safe, all eligible schools shall meet certain requirements (e.g., comply with all health and safety laws or codes that apply to nonpublic schools).

Parental Responsibility for Ensuring Schools Meet Requirements

According to the MDE, the responsibility for verifying whether the nonpublic school meets the statutory requirements (see pages 8-9) lies on the parent of the ESA student. For all requirements except accreditation, the MDE does not independently verify nonpublic schools' compliance with statutory requirements.

Regarding accreditation, parents are responsible for ensuring school accreditation before enrolling their children in the school. The verification of accreditation only occurs when the parent of an ESA student submits a reimbursement request to the Department of Education for tuition. Then, the MDE verifies that the school is in fact accredited. In PEER's satisfaction survey to parents, one parent indicated that she enrolled her child in a school in which personnel told her the school was accredited; however, when she submitted her request for reimbursement, the MDE did not reimburse her for tuition expenses because the school was not accredited. The parent further indicated that she did not have sufficient funds to pursue legal action against the school and wished that the MDE had a list of accredited or eligible schools.

Effects of No Requirement To Approve Schools

Because schools do not have to apply and be approved to accept ESA students, the state has no assurance that schools enrolling ESA students meet all requirements in law. Both Florida and Tennessee's ESA programs require nonpublic schools to annually apply for participation and meet certain criteria. After approval, these schools are eligible to receive funding to pay for tuition and fees for ESA students.

There are no requirements that the nonpublic school apply for participation or a requirement that the parent or any other entity notify the school of an ESA student enrollment. In the PEER survey of nonpublic schools, six of 33 schools (18%) indicated that they were unaware they had enrolled a child with an ESA.

No Requirement for State or Nonpublic School To Monitor ESA Students' IEPs

"The Equal Opportunity for Students with Special Needs Act" does not require the state or nonpublic schools to monitor the individualized education programs of students participating in the ESA program. Thus, the state cannot assess to what extent participating students are receiving the special education services they need and progressing toward or meeting their IEP goals.

"The Equal Opportunity for Students with Special Needs Act" allows any student who has had an active individualized education program within the past five years to be eligible for an education scholarship account. When students with disabilities are enrolled in public school, an IEP committee¹⁸ must develop an individualized education program for those students. The plan

¹⁸The IEP Committee is a team of individuals who work collaboratively to develop, review, or revise the educational program to meet the needs of a child with a disability. The IEP Committee must include the parent, the child (when appropriate), at least one general educator of the child, at least one special educator or service provider of the child, and representative of the public school district.

includes measurable goals and identifies what specially-designed instruction or other supports the student needs to progress toward his or her goals. Examples of supports include academic instruction and speech and/or language therapy. The committee reviews the IEP at least annually, but also determines the best way to assess and report the child's progress on IEP goals throughout the year. There are several ways in which the student could be assessed, including observation or criterion-referenced testing. This information provides assurance to the state that the students are receiving the supports they need and progressing toward their IEP goals.

"The Equal Opportunity for Students with Special Needs Act" does not require that the parent or nonpublic school report to the MDE regarding the status of the child's disability, progress made according to the goals set in the IEP, or what special needs services the student received in the nonpublic school. When a student leaves public school, the IEP is no longer active and there is no requirement that the IEP be monitored or updated until the ESA recertification process every three years, in which parents must demonstrate that their children continue to have a disability. Thus, the state cannot assess to what extent participating students are receiving the special education services they need and progressing toward or meeting their IEP goals.

In PEER's survey of nonpublic schools that had enrolled at least one student with an ESA, eight of 33 schools (24%) indicated that they do not monitor ESA students' IEPs.

Nonpublic School's Provision of Special Needs Services Unknown

The state does not know what special needs services ESA students receive and to what extent those services are provided by the nonpublic school in which the child is enrolled or by the public school district. In PEER's survey of nonpublic schools that had enrolled an ESA student, 11 of 33 schools (33%) reported that they employed no special education staff in FY 2018. Also, 22 schools (67%) indicated that they received services from the public school district in FY 2018, primarily for speech therapy.

If a nonpublic school chooses to provide special education services, it may develop a service plan, which describes what special education and related services will be available. Service plans can include services provided by the school, but often include services provided by the local public school district. The federal "Individuals with Disabilities Education Act" (IDEA) requires the local public school district to spend a proportionate amount of IDEA federal funds to provide equitable services to children with disabilities in nonpublic schools. It is possible that some ESA students will not receive any services while others will, depending on how the local school district decides to use the IDEA funds. Thus, students in the ESA program do not have an individual entitlement to services they would receive if they were enrolled in a public school.

In the PEER survey to nonpublic schools with ESA students, the extent to which special needs services were provided in-house (i.e., by the school itself) in FY 2018 varied significantly. Nonpublic schools aimed toward special needs students offered

such services as dyslexia therapy and audiology. Most schools, however, listed various services provided to students, including one-on-one instruction and tutoring. Seven of 33 (21%) schools did not list any services provided in-house, and 11 schools (33%) reported that they did not employ any special education staff in FY 2018.

Regarding services provided by the local public school district, 22 schools (67%) indicated that they received services from the public school district in FY 2018 (primarily speech therapy services).

Although some nonpublic schools may have a guiding document similar to an IEP (e.g., a service plan) to measure progress for students with special needs, nonpublic schools are not required to report students' progress to the state on any measurable goals. However, in the PEER survey, 18 schools (55%) indicated monitoring of students' IEPs from the public school in FY 2018. Further, one school indicated that it provided each student with a service plan equivalent to an IEP.

The nonpublic school survey results were not comprehensive, as all schools did not respond to the survey. Because information on services provided is not collected at the state level, the state does not know to what extent schools are providing the special needs services ESA students need.

Few Mechanisms for Academic, Administrative, and Financial Accountability

In November 2017, the U. S. Government Accountability Office released a report on "private school choice."¹⁹ For the four ESA programs operating in school year 2016–2017, the report showed that Arizona and Mississippi's ESA programs had fewer academic, administrative, and financial accountability mechanisms in place than Florida and Tennessee's ESA programs.

As a result of the growth of voucher and ESA programs, and the need for information as to how states ensure accountability and transparency to the public and prospective parents, the U. S. Government Accountability Office (GAO) conducted a study on private school choice and released a report in November 2017. A portion of the report examined academic, administrative, and financial accountability mechanisms²⁰ in private choice programs. PEER paid particular attention to report information from the four states that administered ESAs during school year 2016–2017 and determined that Arizona and Mississippi had fewer accountability mechanisms in place than Florida and Tennessee.

¹⁹<https://www.gao.gov/assets/690/688444.pdf>.

²⁰Accountability mechanisms were defined in the report as requirements that private school choice programs place on participating private schools.

Academic Accountability

Mississippi's ESA program does not require any form of standardized or norm-referenced testing of ESA students, unlike Florida and Tennessee's ESA programs. Without this information, the state cannot monitor the academic performance of ESA students and compare their performance to their peers in public school.

The GAO determined that testing is the most common academic accountability mechanism in private choice programs, and that programs are designed to meet this requirement in different ways.

Mississippi's statute has no testing requirement for ESA students. In PEER's survey to nonpublic schools that enrolled an ESA student, none of the schools in Mississippi administered state tests to any students (e.g., the Mississippi Academic Assessment Program, the Mississippi Subject Area Testing Program); however, the two Tennessee schools that responded indicated that they administered Tennessee's state tests to their students. Mississippi schools listed a wide variety of standardized tests administered to their students, including ACT Aspire, ACT, Iowa Test of Basic Skills, SAT, and the Otis-Lennon School Ability Test. However, the ESA program does not require that the results of these tests be reported to the state.

Florida and Tennessee have testing requirements in place to ensure academic accountability. Florida requires nonpublic schools to administer one of the nationally norm-referenced tests identified by its department of education or statewide assessments to students in grades 3-10. Tennessee requires parents to submit verification that the student has taken either a nationally norm-referenced test approved by the state department of education or the Tennessee Comprehensive Assessment Program tests in math and English language arts. Parents must also submit copies of the student's assessment score report. Students with disabilities who would have participated in the alternate assessment, as determined by the student's IEP (when it was active) are exempt from this requirement, however.

These testing requirements allow the state to monitor the academic performance of ESA participants and provide for comparisons between the academic achievement of ESA participants and their peers in public school.

Administrative Accountability

While Mississippi requires that nonpublic schools have certain administrative accountability mechanisms (e.g., follow health and safety codes, conduct background checks), there is no independent verification of these requirements being met via a site visit. Furthermore, although there is an accreditation requirement for schools serving ESA students, Mississippi does not require that schools employ teachers and paraprofessionals²¹ or specialists with minimum requirements, unlike Tennessee and Florida.

²¹Paraprofessionals are individuals employed in a preschool, elementary school, or secondary school under supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

The GAO determined that most private school choice programs nationwide have accountability mechanisms; however, they varied across programs. Administrative accountability mechanisms include requirements that participating private schools employ teachers, paraprofessionals and specialists who have minimum qualifications, conduct background checks on employees, comply with state and local health and safety standards, and comply with site visits by program official.

The GAO also reported that 19 of 27 (70%) private school choice programs nationwide require participating private schools to employ teachers with specific qualifications or credentials, and 15 of 27 (56%) require schools to employ paraprofessionals and/or specialists with specific qualifications or credentials.

Although Mississippi has an accreditation requirement for schools serving ESA students, Mississippi does not require participating nonpublic schools to have minimum requirements for teachers, unlike Tennessee and Florida. Florida, for example, requires participating private schools to employ or contract only with teachers who hold a baccalaureate or higher degree, or have at least three years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

Financial Accountability

Mississippi's ESA program provides financial accountability mechanisms for parents, as reimbursements are made to parents only after they have submitted the proper documentation of allowable expenses. However, Mississippi lacks financial accountability measures for nonpublic schools, including proof of fiscal soundness, unlike Florida and Tennessee.

The GAO reported that all ESA programs had financial accountability mechanisms in place for parents, including Mississippi. Because ESA programs allow for payment of funds to parents, it is important to have an accountability mechanism in place to ensure that parents' expenditures comply with program requirements. Mississippi requires that parents be reimbursed only after they have submitted the proper documentation of allowable expenses.

The GAO further reported that more than half of private school choice programs (15 of 27) require private schools to provide proof of fiscal soundness in order to participate. For ESA programs specifically, Mississippi and Arizona do not have fiscal accountability measures for schools. Florida and Tennessee, however, require private schools to provide evidence of fiscal soundness for approval to serve ESA students. Florida requires that schools have been in operation for at least three school years, or that they file with the Department of Education a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter. Tennessee requires that schools demonstrate financial viability to repay any funds that may be owed to the state by filing financial information with the state department of education each year.

Insufficient Measures of Program Performance

“The Equal Opportunity for Students with Special Needs Act” relies heavily on parent and student satisfaction to demonstrate ESA program performance. Although satisfaction can be a useful measure of performance, this measure does not provide stakeholders the clearest picture of ESA program performance. Without such, stakeholders cannot be assured that the program is effective. PEER is unable to complete its statutory mandate to assess certain measures of ESA student performance (e.g., test scores, graduation rates) because reliable data are not readily available.

The specifics of how to measure program performance can be complicated. Imposing requirements to track and report program data allows legislators to make informed decisions relating to that program. Conversely, overburdening stakeholders with tracking and reporting requirements can impact the speed and quality of a program’s administration. Policymakers aim for accountability systems that give a clear picture of how a program is performing while minimizing the burden on those implementing it.

Because “The Equal Opportunity for Students with Special Needs Act” does not require any state-level reporting of ESA student performance, the act relies heavily on parent and student satisfaction as an indicator of the ESA’s program performance (as measured by the level of participation in the program, and PEER’s statutory requirement to assess program satisfaction). While parent satisfaction can be one useful measure of performance, this measure does not provide stakeholders with the clearest picture of ESA program performance, and without it stakeholders cannot be assured that the program is effective.

In addition, MISS. CODE ANN. Section 37-181-13(2) (1972) requires PEER to assess the following:

- student performance on nationally standardized norm-referenced achievement tests for those participating students whose parents have requested participation in such tests;
- student performance on AP examinations or similar courses and any examinations related to college or university admission; and
- high school graduation rates and college acceptance rates of participating students.

Because nonpublic schools and parents are not required to report this information, and without an accountability structure in the ESA program, there is no reliable data source from which to obtain this information.

State Regulation of Participating Schools and Service Providers

MISS. CODE ANN. Section 37-181-17(1) (1972) prohibits the state from imposing any regulations on eligible schools or educational service providers.

According to MISS. CODE ANN. Section 37-181-17(1), an eligible nonpublic school is not an agent of the state and therefore the state, or any other government agency, shall not regulate the educational programs of schools or educational service providers

that accept funds from the parent of a participating student. Further, the ESA program does not expand the regulatory authority of the state or any school district to impose any additional regulation of nonpublic schools or providers beyond those necessary to enforce the requirements of the program. Finally, eligible schools and providers shall be given the maximum freedom to provide for the educational needs of their students without government control, and shall not be required to alter its creed, practices, admission policies or curriculum in order to accept participating students.

According to MISS. CODE ANN. Section 37-181-17(2), in any legal proceeding pertaining to the regulation of an eligible school or provider, the state has the burden of establishing that the law is necessary and does not impose any undue burden on the eligible school or provider.

MDE's Administration of the ESA Program

Parents responding to the PEER survey reported the MDE application process to be easy to complete and that the Mississippi Department of Education had disbursed funds in a "timely" manner. However, the MDE has not administered the program as effectively as possible because of its informal approach.

Ease of Application Process, Timely Disbursements, and Use of Funds

The MDE has established an ESA application process that 68% of survey respondents indicated was easy to complete. Further, 83% of respondents indicated the MDE has disbursed funds to educational service providers and parents in a timely manner, and 75% of respondents reported that it was easy to use the funds for allowable expenses.

In accordance with MISS. CODE ANN. Section 37-181-9(1) (1972), the MDE has created a standard application form that parents submit to establish their student's eligibility for an ESA. The application is available on MDE's website (see page 7 for description of full application process). The PEER satisfaction survey indicated that 68% of ESA participants believed the application process (including submitting required documentation) to be either somewhat easy or very easy.

Also, the MDE has disbursed funds to educational service providers and parents in a timely manner. The MDE requires that parents submit documentation quarterly and lists tentative disbursement dates on its reimbursement forms. For example, for the second quarter in FY 2017, requests were due on November 30 and the tentative payment disbursement date was scheduled for December 29, 2017. PEER reviewed the posting dates of ESA disbursements in MAGIC and considered them to be timely. Frequently, payments were disbursed earlier than the tentative dates listed on the reimbursement forms. In addition, in the PEER satisfaction survey responses, 83% of ESA recipients indicated that their reimbursements were received in a timely manner. Additionally, 75% of recipients responded that it was "easy" or "very easy" to use the funds for allowable expenses.

Online Submission of Documents

The MDE requires ESA applications and reimbursement request forms, with original receipts, to be mailed to the department. This process could result in lost documentation and potentially delay or deter a parent from applying to the program or submitting reimbursement requests in a timely manner. The three other states that administered ESA programs in FY 2018 provided parents a more secure and efficient way to submit application and reimbursement documentation through an online portal.

The MDE requires ESA applicants to submit their applications via the United States Postal Service. The application indicates that incomplete applications will not be processed and that the MDE is not liable for applications lost in the mail. The MDE also requires parents to submit quarterly reimbursement requests via mail, postmarked by a certain date, with original receipts included. This process could result in lost documentation and potentially delay or deter a parent from applying to the program or submitting reimbursement requests in a timely manner. This quarterly timeline also may not align with parents' receipt of documentation; therefore, the logistics of obtaining and submitting all of the necessary documentation each quarter could be problematic. In the PEER survey, 72% of respondents indicated that they would like to have the option to submit reimbursement requests electronically.

One parent's survey comments illustrate the weakness of the current application process, "When completing the initial application, it states that everything must be completed and provided in your packet. It states that if you are missing anything you will not be notified. This does not make the department seem as if it is there to help families and students. We did not have any issues, but it was unnerving to wonder if you had completed everything correctly or if your application had even been received." Formal, written notification to families that their application had been received, whether any documentation was missing, and a deadline for returning any outstanding information would be beneficial. An online system could be designed to indicate when required items were missing and provide confirmation that the application transmitted successfully.

Arizona, Florida, and Tennessee provide an online portal by which parents can submit application and reimbursement information. Online submissions could provide parents a more efficient way of processing information received and prevent loss of documents in the mail.

Informal Administration of Program

The MDE administers Mississippi's ESA program in a more informal manner than other states, as evidenced by a lack of comprehensive written policies for the program, procedures for accepting and renewing ESAs via a contract, and procedures for withdrawing from the program. Thus, the MDE cannot ensure that it is administering the ESA program in the most efficient manner. In addition, the MDE has not developed a parent handbook, which could create confusion regarding the requirements of the program and potentially lead to inconsistent or incorrect information being given to parents.

In Mississippi, after the MDE awards a student an ESA, the department sends the parents an award package. Parents begin using the ESA when they submit reimbursement requests to the MDE. To withdraw from the program, parents may call MDE staff or indicate on the recertification forms that they do not plan to use their ESA the following year. In October 2018, the MDE provided PEER with a draft version of written policies for the program, dated August 2017; it is unclear as to why these policies have not been adopted, as the ESA program has been in operation for more than three years.

The MDE administers the ESA program in a more informal manner than other states. In Arizona, Florida, and Tennessee, administration of the ESA program includes the following elements, which are missing from Mississippi's administration of the ESA program:

- comprehensive documented procedures for administration of the program;
- state requirement that parents submit documentation providing verification that the child has withdrawn from public school;
- state issuance of a contract with the parent for a specified period of time after being awarded an ESA;
- state requirement that parents submit renewal applications and/or contracts to continue the program the following year; and
- state requirement that parents notify the state in writing if they wish to withdraw from the program during the contract year.

In Tennessee, after a student is approved for the program, the parent must notify a liaison of the public school district in which the student resides, in writing, that the student is enrolling in the program and provide the name of the nonpublic school the student will attend. Then the parent must sign and submit a contract, whereby the parent agrees to various requirements and responsibilities. The parent must submit a renewal application and completed contract to continue the program the following year. If a parent wishes to withdraw the child from the program, the parent must submit a withdrawal form and submit a final expense report within 10 business days of the withdrawal date.

In Arizona, an approval/denial letter must be sent to the parent within 45 days of the application being submitted. After a student is approved for an ESA, parents must submit a "pupil withdrawal form," and Arizona verifies that the student has withdrawn from public school. A contract is issued, which the parent must sign and return, and then the parent is ready for next quarter funding. Parents must complete renewal contracts each year. If a parent removes the student at any time during the contract year, the parent must submit a Close Account Request Form.

In Florida, after a student is determined to be eligible, parents are notified via email and directed to access an eligibility letter. Parents must submit a final verification annually indicating that the child has withdrawn from public school and is enrolling in a

nonpublic or homeschool program (which is allowed in Florida's ESA program). Prior to the distribution of scholarship dollars, the Florida Department of Education will cross-check the eligible student against other scholarship programs to ensure that the student is not enrolled in multiple programs. If the student is indicated as being in public school or participating in more than one program, funding will not be released until that status changes. Also, parents must submit a renewal application by June 30 for the following school year.

Arizona, Florida, and Tennessee have each assembled a parent handbook that describes the ESA program, how to qualify for the program, how parents are expected to use their ESAs, and other information. The handbooks are available online to any interested party. The MDE has not produced a similar handbook, which could cause confusion regarding the requirements of the program and potentially lead to the dissemination of inconsistent or incorrect information.

No Prioritization of ESA Applicants

The MDE has not prioritized students with active IEPs on its waiting list for an ESA, as required by state law. Thus, students enrolled in public schools at the time of application have been denied the first opportunity for an ESA over students enrolled in other educational settings²² (e.g., those already enrolled in a nonpublic school).

MISS. CODE ANN. Section 37-181-7(2)(b) (1972) requires the MDE to randomly select students from its waiting list (i.e., conduct a lottery) when the number of students on the waiting list exceeds the number of ESAs available, with prioritization given to students who have active IEPs. However, the MDE has not prioritized the waiting list for its lotteries. Instead, it has included all applicants who have submitted eligible applications before the lottery date; thus, each applicant has the same chance of being selected.

Without this prioritization, students enrolled in public schools with active IEPs have been denied the first opportunity for an ESA over students already enrolled in a nonpublic school without active IEPs. This practice is in violation of state law and places a group of students who are the target population for the program at a clear disadvantage. While parents of students already enrolled in a nonpublic school do not have to search for, apply, be accepted, and enroll their children in a nonpublic school, they are able to use their scholarships immediately and therefore have little reason to deny or not use their ESAs. As shown in Appendix D, page 54, MDE data indicate that 18% of students who received funds in FY 2017 and FY 2018 were not attending a public school when they applied for an ESA.

²²Other educational settings include homeschool, nonpublic school, out-of-state school, preschool, School 500, or a university-based program.

No Appeals Process

The MDE has not established an appeals policy or procedure by which parents or educational service providers may appeal eligibility or reimbursement decisions. Although not required by law, such a policy ensures that parents are afforded the opportunity to request a review of a decision (e.g., via an appeal form or a hearing). In addition to correcting errors in decisions, appeals provide for clarification and interpretation of laws and policies.

Although state law requires that the MDE adopt rules and policies necessary for the administration of the ESA program, it does not require that the MDE create an appeals policy. The MDE has not established such a policy. Thus, parents or educational service providers who have been denied eligibility or reimbursement through the program have no process by which to appeal MDE decisions. Such a policy would ensure that any errors in decision-making are corrected. In addition, appeals provide for clarification and interpretation of program laws and policies.

PEER survey responses included instances in which parents indicated that the opportunity to appeal a decision would have been desirable. For example, in one case a parent stated that when a school that met the child's unique medical and mental needs within a 30-mile radius²³ could not be located, they asked in writing for the MDE to approve an out-of-state school. However, the MDE did not, and the parent was unable to use the ESA.

Arizona, Florida, and Tennessee have methods by which a parent (or a nonpublic school) can appeal a decision. In Arizona, a parent fills out a form and sends it via mail or email to an ESA Appeals Panel at the state's department of education. In Tennessee, parents fill out a standard appeal form and submit it, within 10 business days of the denial, to the commissioner of education, who issues a final decision within 45 days. In Florida, a parent writes an appeal letter and has the option of uploading the appeal letter and all supporting documentation through an online portal.

The MDE indicated that it would include an ESA appeals policy in its special education policy revisions, which are scheduled for approval by the State Board of Education in early 2019.

Lack of Fraud Reporting and Referral Procedures

Although the MDE is statutorily required to provide an online anonymous fraud reporting service and telephone hotline, MDE's ESA website does not include information on how to report fraud. This missing information could potentially deter someone from reporting suspected fraud. Furthermore, the MDE lacks a procedure for removing educational service providers and referring fraud cases, which could result in unfair and inconsistent application of penalties or decisions in instances of fraud.

According to MISS. CODE ANN. Sections 37-181-11(4) and (5) (1972), the MDE must establish an online fraud-reporting service and an anonymous telephone hotline for fraud reporting.

²³According to MISS. CODE ANN. Section 37-181-5(5) (1972), ESA funds may not be used to attend an eligible school that maintains its primary location in a state other than Mississippi unless the parent verifies in writing that their child cannot obtain appropriate special education and related services in Mississippi at a location within 30 miles of their legal residence.

However, review of MDE's ESA webpage did not uncover any information on how to report fraud using an online system or via telephone. According to the MDE, it had received no reports of fraud from the public since the program's inception, which may correlate to the lack of fraud-reporting information on the ESA webpage.

The websites of Arizona, Florida, and Tennessee contain a clear method for reporting fraud. Arizona's website has as one of its primary links "Report Fraud."

Regarding fraud cases, MISS. CODE ANN. Section 37-181-11(3) (1972) states that the MDE shall adopt a process for removing educational service providers that defraud parents and for referring cases of fraud to law enforcement. However, the MDE has no documented procedure for complying with this law, but the department indicated that it would include such a policy in its special education policy revisions.

The MDE reported to PEER one instance of fraud with an educational service provider. A nonpublic school requested \$4,587.32 that the parent did not authorize (parents must authorize by signature on the reimbursement form if they want funds paid directly to the educational service provider), and the MDE paid the school. In this case the MDE did not require the school to repay the funds because the student was enrolled in the school. Instead, the MDE did not provide reimbursement to the parent. This school continues to receive direct payments from the MDE, and it is unclear as to what the process would be for future violations or what would warrant removal as an educational service provider.

The lack of a written procedure could result in an unfair and inconsistent application of penalties, decisions, etc., when dealing with instances of fraud.

Issues Regarding Reimbursements

Because the MDE has not conducted or contracted for a post-audit of ESAs, it has not ensured the most accurate accounting and reporting of ESA disbursements. In a review of ESA disbursement information, PEER identified two instances in which MDE overpaid parents during a fiscal year, multiple data entry errors, and missing documents needed to verify allowable expenses for reimbursement (e.g., licenses/certifications, verification of enrollment).

MISS. CODE ANN. Section 37-181-11(1) (1972) states:

To ensure that funds are spent appropriately, the State Department of Education shall adopt rules and policies necessary for the administration of the program, including the auditing of education scholarship accounts, and shall conduct or contract for random audits throughout the year.

ESA program staff indicated that they conduct the following audit steps:

- When a parent submits a reimbursement request, ESA staff ensures that the expense is allowable and performs the necessary steps for reimbursement. These actions serve as a

form of pre-audit because the MDE reviews reimbursement requests before payments are approved and sent to parents.

- Twice per year, ESA staff check the Mississippi Student Information System database, which captures student, teacher, and administrator data/records for the public school system, to determine whether any ESA students are enrolled in public school and whether their parents are still submitting requests for reimbursement. These actions are an attempt to prevent fraud.

While these actions are appropriate for auditing a program throughout the year, a post-audit would allow the MDE to ensure the most accurate financial reporting of ESAs and ensure that the program has the proper internal controls in place. A post-audit would likely capture overpayments, data entry errors, and missing documentation for reimbursement.

Overpayments to Parents and Data Entry Errors

The MDE overpaid two ESA participants a total of \$1,608. MDE's records indicated overpayments for five other ESA participants; however, those were determined to be data entry errors.

PEER reviewed MDE's documentation on disbursements made to parents and educational service providers for each ESA in FY 2017 and FY 2018. In FY 2017 the MDE overpaid two ESA participants a total of \$1,608. Although the maximum allowed reimbursement amount that year was \$6,637, the MDE disbursed \$7,787 to one participant, an overpayment of \$1,150. The MDE paid another participant \$7,095, an overpayment of \$458. According to the MDE, it will request reimbursement from those two participants for the overpayments by reimbursing the State Treasury the amount of the overpayment or to have the current year's ESA (2018-2019) reduced by the amount of the overpayment.

Also, the MDE's records of disbursements show that on five occasions in FY 2017 and FY 2018, it switched the ESA identification numbers of participants such that it appeared to have overpaid a participant in four of these cases.

Missing Documents Needed To Verify Allowable Expenses

In PEER's review of selected reimbursements for 14 ESA participants, six did not contain the required documentation to verify allowable expenses, particularly for nontuition expenses.

PEER reviewed reimbursement requests for 14 ESAs in which parents or providers were reimbursed for only nontuition expenses. Of the 14, six did not have proper documentation according to state law or the MDE's request form instructions. Following are examples of the issues identified:

- The MDE received multiple reimbursement requests in FY 2017 and 2018 totaling \$11,000 for "tuition" for two siblings. Invoices indicated that the parent was paying for "teaching." Tuition can only be reimbursed if the student is attending an "eligible school;" however, this education provider is not

accredited but rather is a nonprofit tutoring company.²⁴ While tutoring is an allowable expense, the parent did not submit any required licenses or certifications. Further, the parent indicated on the requests that the students' current school is the tutoring company; thus, it is unknown as to whether these students are actually enrolled in an eligible nonpublic school, a requirement for participation in the ESA program. The MDE reimbursed the parent \$11,000 and erroneously coded the expense as tuition.

- In FY 2017 a parent submitted a request for \$1,040 for tutoring for a preschool age child, including \$390 for "Mother's Day Out." The parent did not provide proper certifications for a tutor but provided a childcare facility license and the director's credentials for a childcare center. However, the MDE reimbursed \$1,040 for these services.
- In FY 2018 a parent requested \$6,286.10 for tutoring. However, the tutoring certification provided did not meet statutory standards to be certified or licensed by a state, regional, or national certification or licensing organization. The parent provided a certificate from the entity employing the tutor, an in-home supportive care nonprofit agency, which does not meet the standards for tutoring certification. However, the MDE reimbursed \$6,286.10 for these tutoring services.
- The MDE received a reimbursement request form in FY 2017 for \$1,200 for "educational services or therapies from a licensed or certified practitioner, provider, paraprofessional, or educational aide." Despite the MDE's requirement that the parent include a copy of the license or certification of the provider, the parent did not comply. Also, the parent did not indicate that the child was enrolled in a nonpublic school. However, the MDE made a direct payment to the educational service provider for \$1,200, as authorized by the parent.

While the MDE provides parents with reimbursement instructions, there are no established procedures by which the department processes those reimbursements. Thus, there is no quality control process to ensure that data are entered correctly or that payments are authorized and processed correctly.

Other States Offer More Immediate Access to Funds

Mississippi offers parents reimbursement each quarter in the fiscal year. Waiting to recoup funds could be burdensome for some parents and could prevent some students from participating in the program. The other states administering ESA programs provide parents and providers with more immediate access to funds. Parents in Tennessee and Arizona receive debit cards, which they are able to use for approved expenses. In Florida, educational service providers have the option to submit requests for reimbursement.

²⁴MISS. CODE ANN. Section 37-181-3 (1972) does not impose specific requirements on tutoring organizations or private tutoring programs, which sometimes provide full-time tutoring services to students.

Mississippi's ESA program operates on the following quarterly reimbursement schedule:

- First-quarter reimbursement request due at the end of August; reimbursement received at the end of September.
- Second-quarter reimbursement request due at the end of November; reimbursement received at the end of December.
- Third-quarter reimbursement request due at the end of February; reimbursement received at the end of March.
- Fourth-quarter reimbursement request due at the end of May; reimbursement received at the end of June.

This timeline could be burdensome to some parents who must wait to recoup their funds. For example, a parent would have to pay tuition and fees required by the nonpublic school for enrollment beginning in August but would have to wait for reimbursement at the end of September. Some ESA recipients were unable to use their scholarships because they could not afford the up-front costs associated with nonpublic schools. Also, Mississippi's quarterly reimbursement schedule may or may not align with a school's tuition schedule.

Tennessee and Arizona ESA recipients receive access to ESA funding through a debit card account, which is administered by the states' departments of education. The program is direct payment only and does not reimburse account holders for any personal funds spent. Debit cards can be used only to make purchases at merchants who provide services or sell products that are approved expenses. The debit cards have restricted "Merchant Category Codes," which are numeric codes assigned by a bank or credit card company to a business that is set up to accept credit or debit cards as a form of payment. In some cases (e.g., for tutoring services), preapproval is required. Both states require parents to submit quarterly expense reports showing how the funds were spent. Parents must also submit receipts of all expenses paid and reconcile expenditures with the debit card account statements.

In Tennessee, ESA participants receive funds in 10 payments across the contract year, which are deposited into debit card accounts. In Arizona participants receive funding in four quarterly payments across the contract year, placed into debit card accounts.

Florida operates its program on a reimbursement basis (to parents or direct pay to providers) as Mississippi does. However, Florida differs in the sense that it allows providers to submit requests for direct payment for certain services. For example, nonpublic schools can request reimbursement using the following schedule: July 1, nonpublic schools can request 25% of annual tuition and 100% of fees mandatory for enrollment; October 1, 25% of annual tuition; January 1, 25% of annual tuition; and April 1, 25% of annual tuition.

One official of a nonpublic school with enrolled ESA students indicated that the program could be improved by allowing schools to bill the program directly. Another school official stated that final tuition payments should be awarded prior to the end of the fiscal year. Because Mississippi's quarterly reimbursement schedule is based on a fiscal year, final payments are not made until late June.

Have parents and students been satisfied with the ESA Program?

Despite some negative aspects and limitations in administration of the ESA program, survey respondents indicated that they and their children were satisfied with the program and with the special needs services provided by the nonpublic schools. In addition, the respondents believed that their children had shown progress in achieving their academic goals through participation in the ESA program.

PEER administered a satisfaction survey to 630 parents of children who were awarded an ESA in FY 2016 through FY 2018. Although their children received an ESA in FY 2016, PEER could not provide the survey to 144 parents because the MDE did not have the parents' contact information—i.e., addresses—readily available. PEER determined that the children of those parents did not use their awarded ESAs.

PEER provided two ways for parents to complete the survey: online via a unique web address or by returning the hard copy of the survey that was included with a letter explaining the purpose of the survey. PEER also sent email reminders to complete the survey to 563 parents who provided their email addresses on their ESA applications. All responses were anonymous.

PEER received 250 responses, resulting in a response rate of 40%. The majority of respondents (91%) used their ESAs and most are still participating in the program.

Survey responses are self-reported and reflect only the parents' perceptions of various aspects of the ESA program.

Overall Parent Satisfaction

Rating the program from 1 to 5 with "5" indicating "very satisfied," responses indicated 90.8% of parents as either very satisfied or satisfied with the ESA program.

Student Satisfaction

Regarding their child's satisfaction, almost 80% of parents responding to the survey indicated that their child was satisfied and listed such reasons as confidence gain, receiving positive feedback, and becoming more social. Less than 6% of respondents reported child dissatisfaction.

Special Needs Services

Parents also rated satisfaction with special needs services provided by the nonpublic school highly at 69%, compared to 24% satisfaction with special needs services in public school. In addition, almost 50% of parents indicated that their child received more one-on-one attention and had smaller class sizes in nonpublic school, which they believe better served their students' special needs.

Progress and Improvement in Students

Of parents responding to the PEER survey, 78% indicated that their child showed progress regarding goals in the child's IEP, with only 7.38% indicating no progress or improvement. Regarding academic coursework, approximately 66% of parents reported progress in general academic subject areas. In other academic areas, 11.44% of parents indicated improvement in elective standardized tests, 4.24% in advanced placement exams, and 3.39% in college or university admission tests. Almost one-third of parents (31.78%) indicated the question was not applicable, however, which may indicate the student had not taken any additional tests by which improvement could have been measured.

See complete survey questions and results in Appendix F, page 56.

Recommendations

1. The Legislature should consider amending state law to direct the Mississippi Department of Education to implement an accountability structure for the Education Scholarship Account program, which is necessary to ensure that taxpayer funds are being expended to help students with disabilities receive the educational services they need and that nonpublic schools are meeting their statutory obligations. Without such a structure, the state cannot assess whether the funds being invested in the program are resulting in any measurable results, namely, positive outcomes for participating students. By December 1, 2019, the MDE should submit to the Senate and House Education Committees recommendations for an accountability system through which the state can assess the following:
 - a. program participants' progress toward their special needs goals (whether those are included in an individualized education program from the public school system or a service plan from the nonpublic school system);
 - b. program participants' performance on nationally norm-referenced achievement tests and any other tests related to college or university admission;
 - c. program participants' graduation rates and college acceptance rates;
 - d. nonpublic schools' compliance with their statutory obligations (e.g., compliance with health and safety laws), as described in MISS. CODE ANN. Section 37-181-15 (1972);
 - e. nonpublic school quality;
 - f. any other pertinent program outcomes; and
 - g. whether or not the provision in MISS. CODE ANN. Section 37-181-5(5) (1972), which allows parents to use ESA funds to attend a school out of state after the parent has verified in writing when the child "cannot reasonably obtain appropriate special education and related services in Mississippi at a location within 30 miles of their legal residence" should be revised. Such a recommendation could provide protection for the state and for public school districts against liability due to the district's alleged inability to provide appropriate special education services.

The MDE's recommendations should specifically describe which accountability measures should be the responsibility of participants' parents versus those that should be the responsibility of nonpublic schools receiving ESA funds, if any.

2. The Legislature should consider amending MISS. CODE ANN. Section 37-181-7 (1972) to adjust the ESA formula to align with the Mississippi Adequate Education Program. Factors to consider include the following:

- a. that other states administering ESA programs use a formula that results in an amount that is 90% or equal to the amount the public school or school district would have received for the student, and
 - b. that the cost to educate special education students in Mississippi should be quantified to the extent possible and potentially incorporated into the formula.
3. The Legislature should consider amending MISS. CODE ANN. Section 37-181-7(2)(b) (1972) to
 - a. remove the lottery requirement, which would allow the MDE to award ESAs as soon as possible, and
 - b. in addition to prioritizing students with active IEPs, prioritize the waiting list based on students' length of time on the list in order to reduce the time a student might be delayed needed services, and prioritize students from low-income families, which is a target population in the ESA program.
4. The Legislature should consider amending state law to
 - a. allow for unused ESA funds to be reappropriated the following year so that more ESAs may be awarded.
 - b. impose additional requirements for tutoring organizations or private tutoring programs, which sometimes provide full-time tutoring services to students. Such requirements might include that the organization's tutoring staff have teaching certificates and that the organization or program has attendance requirements.
 - c. provide a means for offering parents more immediate access to funds to purchase approved items/services or by requiring the MDE to accept invoices for tuition directly from nonpublic schools. Tuition payments should be based on a reasonable schedule that aligns with a 10-month school year rather than a full fiscal year, so that timely payments may be made.
 - d. require the MDE to establish an appeals process for parents or educational service providers so that they have the opportunity to formally request a review of a decision, and so that the MDE has a process for clarifying and interpreting ESA laws and policies.
5. The Mississippi Department of Education should improve its administration of the ESA program by
 - a. complying with MISS. CODE ANN. Section 37-181-7(2)(b) (1972) regarding prioritization of students with active IEPs (i.e., students enrolled in public school) on the waiting list to ensure that the program's target population has the first opportunity for an ESA.
 - b. developing a system internally or through the Department of Information Technology Services for online submission of applications, reimbursement request forms, and other required documentation, which would provide for a more secure and efficient

way to transmit information. The system should confirm receipt of information and flag any outstanding items.

- c. using historical data on its administrative costs to estimate future cost to operate the program and then determine the maximum amount available for ESAs.
- d. adopting comprehensive formal policies and procedures for the administration of the ESA program, Specifically, the MDE should develop procedures for recipients to accept or decline ESAs by a certain date, submit a nonpublic school enrollment certificate, renew ESAs by a certain date for the following school year, and withdraw from the program with notification to the MDE within a certain time frame. These procedures should provide more timely information to the MDE as to the status of ESA recipients and allow for MDE to rearward unused ESAs as quickly as possible.
- e. conducting at least one lottery in the winter and at least one lottery in the spring, if the MDE continues to be required to conduct lotteries, so that parents are given ample time to apply and enroll their children in a nonpublic school before the following school year.
- f. creating a parent handbook, similar to other states administering ESA programs, to improve communication with potential and current ESA participants.
- g. complying with MISS. CODE ANN. Sections 37-181-11(4) and (5) (1972), by providing on MDE's website a clear link to its online anonymous fraud reporting form and anonymous telephone hotline for reporting fraud.
- h. developing and adopting procedures for removing educational service providers and referring fraud cases to law enforcement, in accordance with MISS. CODE ANN. Section 37-181-11(3) (1972).
- i. annually conducting or contracting for a post-audit of ESA disbursements to parents and educational service providers, and administrative expenditures to operate the program. This audit could identify financial or data entry errors, as well as issues with internal controls.
- j. developing written quality control procedures for MDE staff to verify allowable expenses, particularly for nontuition expenses.

Appendix A: Profile of ESA Recipients

The following exhibits present a profile of ESA recipients as of the conclusion of school year 2017-2018.

Age	Number of Recipients	Percentage of Total
4-5	13	3%
6-10	133	31%
11-13	113	27%
14-18	143	34%
19-21	22	5%
TOTAL	424	100%

Age of IEP (Years)	Number of Recipients	Percentage of Total
1	61	14%
2	135	32%
3	137	32%
4	56	13%
5	26	6%
6	9	2%
TOTAL	424	100%

Race/Ethnicity	Number of Recipients	Percentage of Total	Number of Participants	Percentage of Total
American Indian or Alaskan Native	1	0%	1	100%
Asian	4	1%	4	100%
Black or African American	99	23.5%	75	76%
Hispanic or Latino	4	1%	4	100%
White	250	59.5%	228	91%
Other	3	1%	3	100%
Did not respond	60	14%	41	68%
TOTAL	421	100%	356	85%

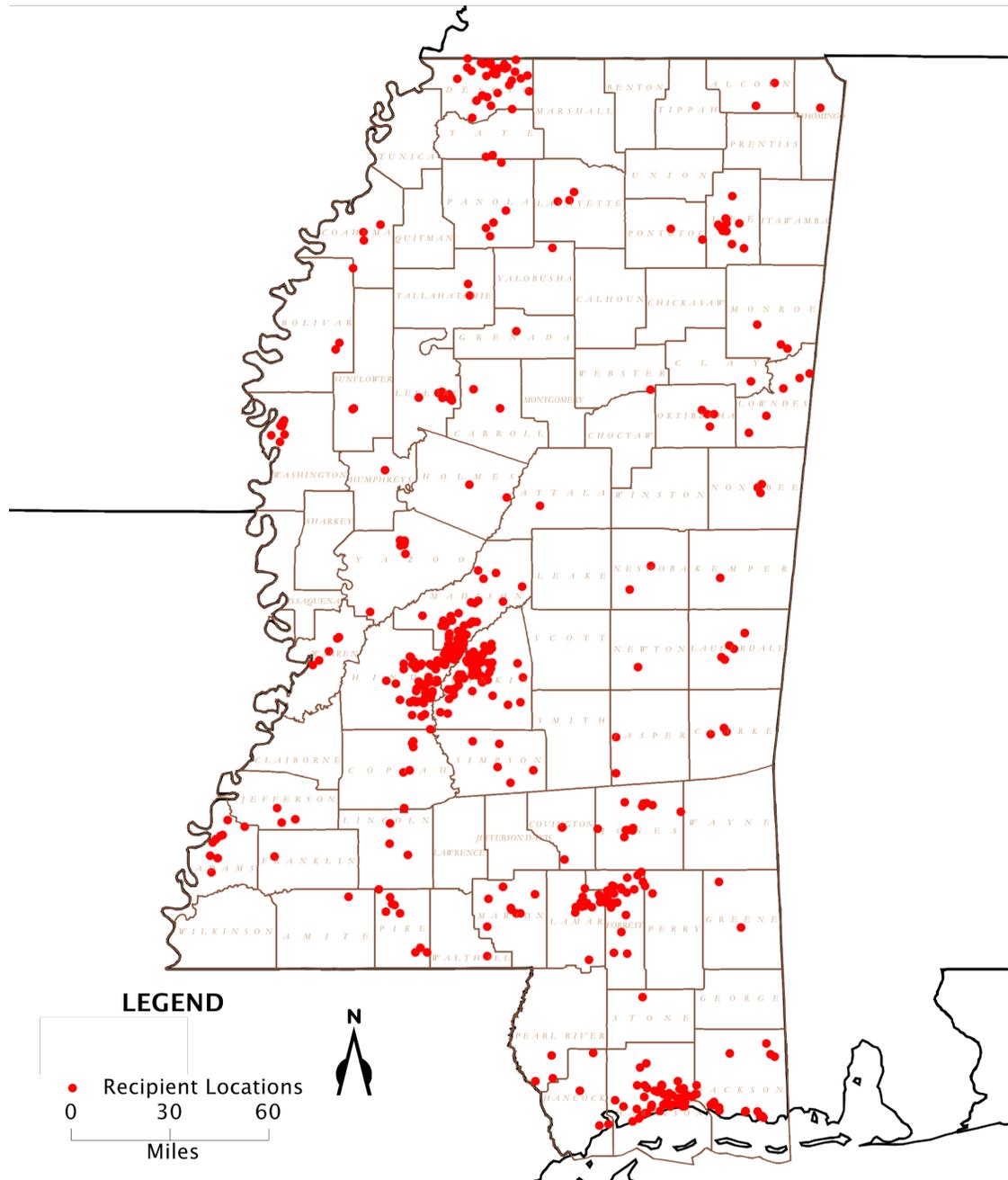
Eligibility Category	Number of Recipients (self-reported)	Percentage of Total	Number of Participants (MDE database)	Percentage of Total
Eligible for Free or Reduced Lunch	75	18%	75	100%
Not Eligible for Free or Reduced Lunch	242	57%	281	116%*
Did not respond	104	25%	N/A	N/A
TOTAL	421	100%	356	85%

*Of the 281 participants, some are in the “not eligible category” and some are in the “did not respond” category for Number of Recipients. Therefore, the percentage is higher than 100%.

Primary Disability Type (IDEA Category)	Number of ESA Students	Percentage of Total	Number of Students Statewide	Percentage of Total
Language/Speech Impaired	89	21%	17,762	25.5%
Other Health Impaired	87	20.5%	12,333	18%
Specific Learning Disability (e.g., reading comprehension)	84	20%	16,428	24%
Developmentally Delayed	65	15%	7,120	10%
Autism	48	11.5%	5,179	7.5%
Emotional Disability	16	4%	3,492	5%
Hearing Impaired	11	2.5%	736	1.5%
Intellectual Disability	8	2%	3,843	5.5%
Multiple Disabilities	7	1.5%	1,384	2%
Visually Impaired	6	1.5%	351	0.5%
Traumatic Brain Injury	2	0.5%	166	0%
Orthopedic Impairment	1	0%	395	.5%
Deaf-Blind	0	0%	8	0%
TOTAL	424	100%	69,197	100%
ESA students as a percentage of total students with disabilities statewide - 0.6%				

SOURCE: PEER Analysis of Mississippi Department of Education data.

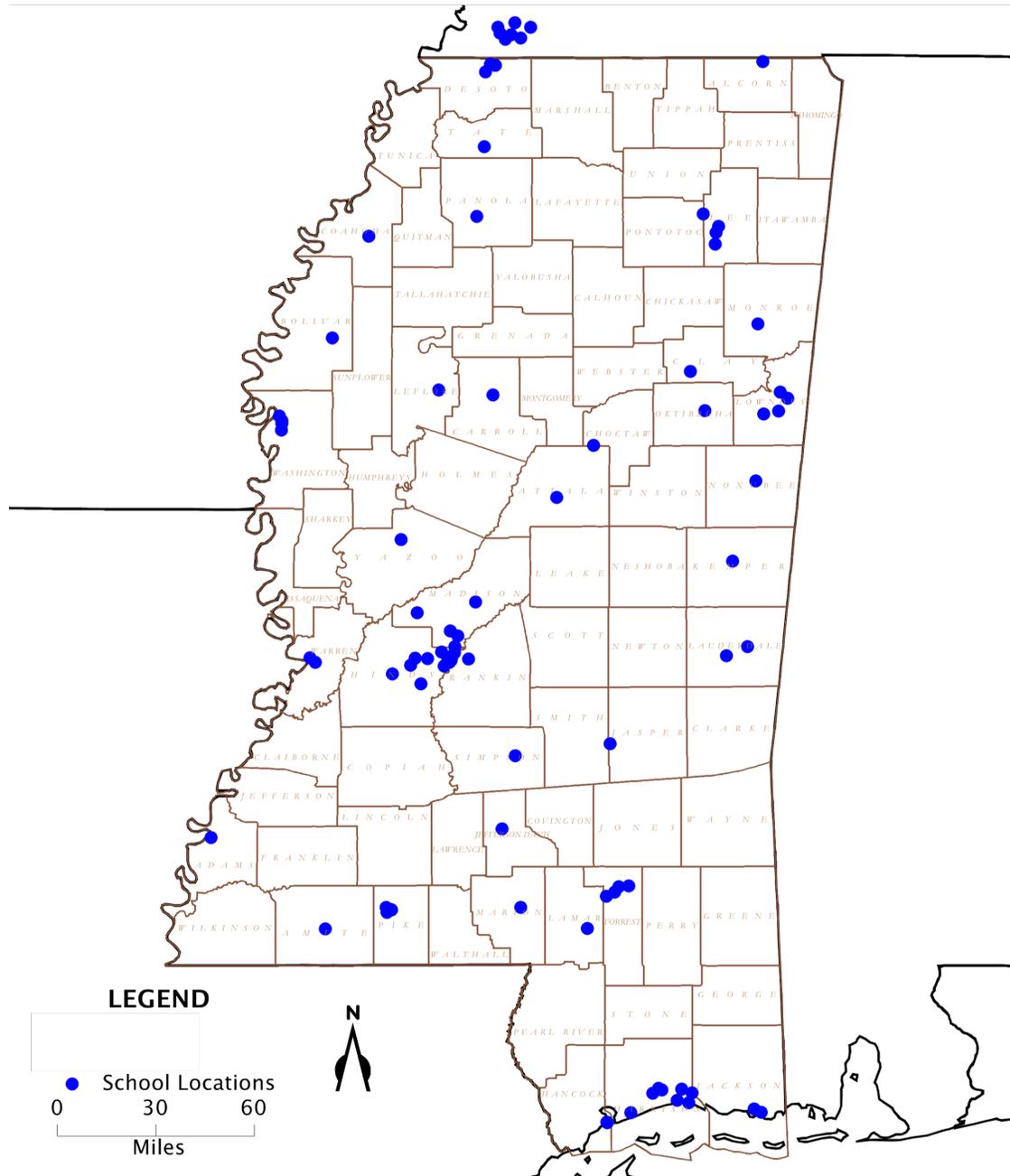
Appendix B: Location of ESA Recipients, FY 2017-FY 2018



ESA recipients include those who were awarded an ESA in fiscal years 2017-2018, and those who rolled over their ESAs from FY 2016.

SOURCE: PEER analysis.

Appendix C: Location of Nonpublic Schools Serving ESA Participants, FY 2017–FY 2018



Nonpublic school locations include schools in Mississippi and Tennessee who served students in the 2017–2018 school year.

SOURCE: PEER analysis.

Appendix D: Enrollment Categories for ESA Participants, FY 2017–FY 2018

MDE payments to ESA Participants in FY 2017 by Enrollment Category at Time of Application

Enrollment Category of ESA Participant at Time of Application		Number of ESA Participants	Payments to ESA Participants
Enrolled in public school at time of ESA application (transferred out)		280 (82%)	\$1,573,734
Not enrolled in public school at time of ESA application	Education Setting		
	Homeschool	2	\$11,190
	Non-public school	9	\$41,967
	Out of state school	4	\$19,030
	Preschool or Preschool age	18	\$91,154
	School 500	14	\$68,835
	University-based program	13	\$75,746
	Subtotal	60	\$307,922
Total		340	\$1,881,656

MDE Payments to ESA Participants in FY 2018 by Enrollment Category at Time of Application

Enrollment Category of ESA Participant at Time of Application		Number of ESA Participants	Payments to ESA Participants
Enrolled in public school at time of ESA application (transferred out)		300 (82%)	\$1,706,168
Not enrolled in public school at time of ESA application	Education Setting		
	Homeschool	2	\$8,560
	Non-public school	7	\$42,114
	Out of state school	2	\$9,700
	Preschool or Preschool age	16	\$92,539
	School 500	29	\$130,301
	University-based program	11	\$68,433
	Subtotal	67	\$351,647
Total		367	\$2,057,815

SOURCE: PEER analysis of Mississippi Department of Education data.

Appendix E: Schools and Other Educational Service Providers Serving ESA Participants, School Year 2017-2018

Agape Montessori Christian Academy	Liberty University Online Academy*
Amite School Center	Madison-Ridgeland Academy
Annunciation Catholic School	Madonna Learning Center^
Autism Center of North Mississippi	Magnolia Heights School
Bayou Academy	Magnolia Speech School
Bodine School	Manchester Academy
Bowie Reading and Learning Center^	Mt. Salus Christian School
Briarcrest Christian School^	Nativity BVM School
Canton Academy	New Hope Christian School
Carroll Academy	New Jerusalem Christian Academy
Cathedral School	North New Summit School
Cedar Lake Christian Academy	New Summit School - Jackson
Central Hinds Academy	North Corinth Christian Academy
Christ Covenant School	North Delta School
Christian Collegiate Academy	Northpoint Christian School
Clinton Christian Academy	Old Dominion Christian School
Columbia Academy	Our Lady Academy
Concord Academy^	Our Lady of Fatima Elementary School
Covenant Preschool	Our Lady of Lourdes Elementary School
Cross Creek Christian Academy	Parklane Academy
Desoto County Academy	Penn Foster High School*
Discovery Learning Center*	Pentecostal Christian Academy
Dynamic Dyslexia Design: The 3-D School	Porters Chapel Academy
The Education Center School	Prentiss Christian School
Encore Rehabilitation*	Resurrection Catholic School - Pascagoula
Evangelical Christian School^	Russell Christian Academy
Exygnos Christian Learning Center	Sacred Heart Catholic Elementary School -
First Baptist Church Kindergarten	Sacred Heart Catholic School - Hattiesburg
First Presbyterian Day School	Sacred Heart School - Southaven
Forest Trail Academy*	Saint Andrew's Episcopal School
French Camp Academy	Simpson County Academy
French Camp Academy - Online*	St. Alphonsus Catholic School
Happy Start Learning Academy	St. Elizabeth Catholic School
Hartfield Academy	St. Joseph Catholic School - Greenville
Hebron Christian School	St. Joseph Catholic School - Madison
Heritage Academy	St. Patrick Catholic High School
Hillcrest Christian School	St. Paul's Episcopal School
Holy Trinity Catholic School	St. Richard Catholic School
Hope Academy	St. Stanislaus
Hope Family Care Service*	St. Vincent de Paul Catholic Elementary School
Huntington Learning Center	Starkville Academy
Jubilee Performing Arts Center	Sylva-Bay Academy
K12 International Academy*	Teach Foundation Tutoring*
Kemper Academy	Tender Ages
The Keystone School*	The Institute for Diverse Education (TIDE School)
King's Court Christian Academy	Tri-County Academy
Lamar Christian School	Tupelo Christian Preparatory School
Learning Skills Center*	Woodland Presbyterian School^

^Tennessee school *Online school *Other educational service providers (e.g., tutoring organizations)
 SOURCE: PEER analysis of Mississippi Department of Education data.

Appendix F: Education Scholarship Account Satisfaction Survey Questions and Rate of Response

The following summarizes PEER survey responses by parents of students awarded ESAs between July 2015 and June 2018. For question 20, a summary of responses is provided. All responses were anonymous and reflect only parents' perceptions of the program.

1. Number of children in the home awarded an ESA between July 2015 and June 2018	
1	94.82%
2	4.38%
3	0.80%
4+	0.00%
2. School year(s) in which the child or children were awarded an ESA	
2015-2016	43.60%
2016-2017	73.60%
2017-2018	81.20%
3. Difficulty or ease in completing application process and submitting required documentation	
Very Difficult	1.61%
Somewhat Difficult	15.26%
Neither Difficult or Easy	15.26%
Somewhat Easy	27.71%
Very Easy	40.16%
4. Factors that contributed to the decision to apply for the ESA program	
More support and services available in private school to address child's special needs	65.73%
Better resources at private school child already attending	27.02%
Teachers and staff at public school not effective at meeting child's special needs	55.65%
Improved academic opportunities	48.79%
Child not performing well academically	43.55%
More individual attention	77.02%
Child exhibiting behavioral problems and/or having negative experiences	30.65%
5. Number of children in the home who used ESA funds awarded between July 2015 and June 2018	
0	9.16%
1	86.85%
2	3.59%
3	0.40%
4+	0.00%
6. Difficulty or ease in using ESA funds for allowable expenses	
Very Difficult	4.02%
Somewhat Difficult	4.02%
Neither Difficult or Easy	8.03%
Somewhat Easy	16.87%
Very Easy	58.23%
Not applicable	8.84%

7. Agreement with the following statements regarding reimbursements

Reimbursements received in a timely manner	83.42%
Process of signing up as a vendor in MAGIC (the state's accounting system) was easy	33.69%
Quarterly reimbursements made it easy to manage expenses during the school year	59.36%
Submitting reimbursement requests by mail was easy and convenient.....	60.43%

8. Desired options for more flexibility using ESA scholarship funds in the following areas

Submission of reimbursement requests online or electronically	71.43%
Quarterly deposits into a private bank account accessible by debit card, etc., for instant access to funds.....	28.10%
Receiving tuition reimbursement in full at the end of the first quarter after verification of enrollment.....	50.48%
Rolling unused funds over from year to year up to a capped or limited amount.....	60.00%
Parental contribution of additional pretax funds to the ESA for education and special needs services	37.62%

9. Reasons child did not use awarded scholarship funds or is no longer participating in ESA program

Could not locate a private school meeting child's needs	10.70%
Placed on a waiting list or denied admission to a private school(s)	6.42%
ESA scholarship did not cover the cost of private school tuition	6.42%
Did not receive needed services in private school.....	6.95%
Individualized Education Program expired or child no longer needed special services	2.14%
Decided to reenroll in public school.....	14.97%
Decided to homeschool	3.21%
Application deadline did not allow enough time to enroll or arrange new services prior to next school year...2.67%	
Not applicable	70.05%

10. Child's qualifying disability(ies)

Speech or language impairment	48.18%
Hearing impairment	4.45%
Deafness.....	1.21%
Visual impairment, including blindness	3.24%
Deafness-blindness	0.00%
Orthopedic impairment	1.21%
Traumatic brain injury	2.02%
Autism	27.13%
Intellectual disability	9.72%
Developmental delay in children ages three through nine.....	14.57%
Emotional disturbance	14.98%
Specific learning disability affecting understanding or using language	36.84%
Other health impairment affecting alertness or attentiveness	48.58%
Multiple disabilities (excludes deafness-blindness).....	2.83%

11. Type of school child attended in the school year before participating in the program

Public school.....	80.17%
Same private school	14.46%

12. Satisfaction with special needs services provided by the public school where child was enrolled when awarded ESA

Very Dissatisfied	26.34%
Dissatisfied	20.99%
Neither Dissatisfied Nor Satisfied	11.93%
Satisfied.....	9.88%
Very Satisfied	14.40%
Not applicable	16.46%

13. Types of special needs services received in public school that were unavailable in the private school attended while in the ESA program (191 parent-provided responses)

Therapies or services	23.04%
Formal special education instruction or teachers.....	8.38%
Provision of an IEP	7.85%
Received same services in public and private school	4.71%
None or not applicable.....	47.64%

14. Satisfaction with special needs services provided by the private school where child was last enrolled

Very Dissatisfied	4.56%
Dissatisfied.....	3.73%
Neither Dissatisfied Nor Satisfied	5.81%
Satisfied	18.67%
Very Satisfied	50.62%
Not applicable	16.60%

15. Types of special needs services received in private school that were unavailable in the public school child previously attended (200 parent-provided responses)

One-on-one attention/smaller classrooms	48.5%
Special needs services or therapy.....	27.0%
Teaching at level and inclusion	17.5%
More support and services	14.5%
More communication and assistance.....	11.5%
Caring and empathy	6.50%
Tutoring	5.50%
Training and expertise of teachers/staff	4.50%
Not applicable	26.5%

16. Measurable progress or improvement shown, according to goals in child's IEP or service plan

Yes.....	78.28%
No.....	7.38%
Not applicable.....	14.34%

17. Progress or improvement in the following academic areas

Elective standardized tests (e.g., TerraNova, PSAT)	11.44%
College or university admission tests (e.g., ACT, SAT).....	3.39%
General academic subject area coursework	65.68%
Advanced placement (e.g., AP English or Math) exams	4.24%
Not applicable	31.78%

18. Child satisfaction with private school in satisfying their learning needs and providing effective services

Satisfied with private school.....	78.37%
Not satisfied with private school	5.71%
Received positive feedback from teachers and achieved academic growth.....	58.37%
Achieved improvements in disability area(s) (e.g., communication, behavior, attentiveness).....	55.10%
Gained confidence and became hopeful about ability to achieve or improve future	64.90%
More motivated to go to school and complete schoolwork	55.92%
Became more social and participated more in class and/or extracurricular activities	58.37%
Not applicable	8.98%

19. Parents' satisfaction with ESA program overall

Very Dissatisfied	3.32%
Dissatisfied	2.07%
Neither Dissatisfied Nor Satisfied	3.73%
Satisfied	20.33%
Very Satisfied	70.54%

20. Suggestions for changes to ESA program

- increased program funding to cover the high cost of private school tuition, fees, and outside services;
- additional program funding to make more scholarships available;
- more special needs schools and accredited private schools;
- easing of ESA program eligibility requirements and expansion of eligible expenses;
- more frequent lotteries with priority given to older applicants first;
- administration of the ESA program, including the following:
 - establishing a more frequent reimbursement schedule;
 - instituting an electronic system to confirm application and reimbursement requests;
 - providing assistance with establishing a vendor ID;
 - requiring schools to accept direct pay;
 - improving customer service;
 - institution of an appeals process;
 - require greater private school accountability.

SOURCE: PEER analysis.

Agency Response



Office of Academic Education
Nathan Oakley, Ph.D.
Chief Academic Officer

December 6, 2018

Mr. James A. Barber, Executive Director
Joint Committee on Performance Evaluation and Expenditure Review
P.O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Barber:

The Mississippi Department of Education (MDE) has reviewed the 2018 biannual education scholarship account report drafted by the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER). MDE staff are appreciative of the detail contained in the report and the cooperative manner in which PEER staff worked to compile information contained therein.

As indicated in the report, the MDE is working to refine and approve policies and procedures for the ESA program. The MDE wants to ensure the application process is as efficient as practical for families, and we also want to ensure that sufficient accountability is in place regarding expenditures and student outcomes, both for families and service providers receiving funds under this program, as allowed under the law.

If you have any questions, please contact me at 601.359.3077.

Sincerely,



Nathan Oakley, Ph.D.
Chief Academic Officer

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